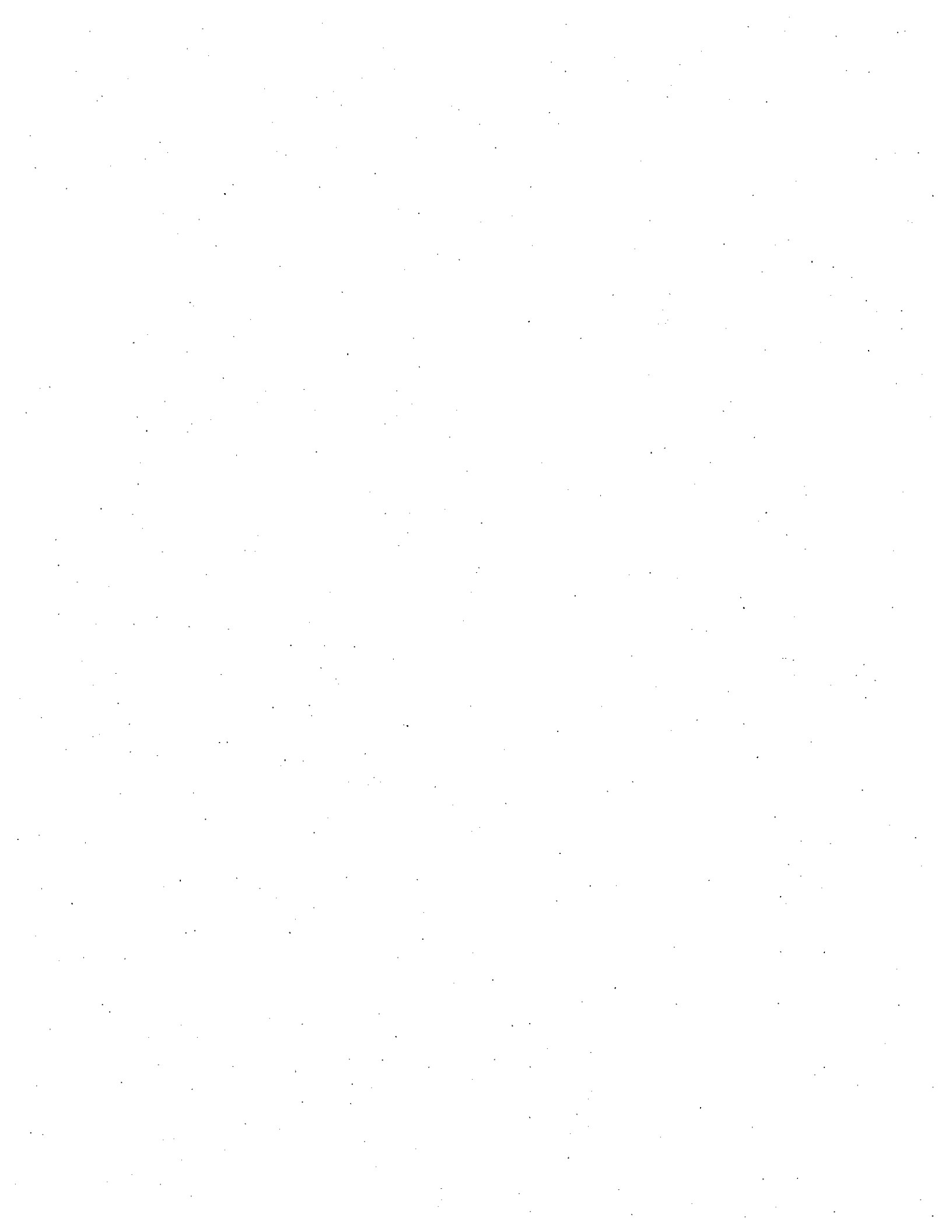


City of Carlsbad Specific Plan 144

Amended and Restated with Amendment 144(K), per

City of Carlsbad Ordinance No. CS-148, adopted on May 24, 2011



City of Carlsbad Specific Plan 144
(as amended and restated by Ordinance No. CS-148 with 144(K))

I. INTRODUCTION

A. PURPOSE

The purpose of this Specific Plan is to set forth the existing land uses and land use regulations applicable to the area of Carlsbad which includes the Agua Hedionda Lagoon and certain areas near the lagoon, including the Encina Power Station.

Pursuant to Carlsbad City Council Ordinance CS-148 the purpose of this amendment to Specific Plan 144, described as Specific Plan 144(K), is to:

1. Incorporate the provisions of Carlsbad Municipal Code (CMC) Chapter 21.209 - Cannon Road Agricultural and Open Space (CR-A/OS) Zone into Specific Plan 144.
2. Revise Exhibit C to identify lands within SP 144 which are subject to "Proposition D - Preserve the Flower and Strawberry Fields and Save Taxpayer's Money" and the Cannon Road Agricultural/Open Space (CR-A/OS) Zone.
3. Maintain the conditions and regulations of previous Specific Plan Amendments A through H.

B. HISTORY

Specific Plan 144 (SP 144) was originally adopted in City of Carlsbad Ordinance 9279 on August 3, 1971. The purpose of the Specific Plan was to provide rules and regulations for the orderly development of 680 acres of land located East of the Pacific Ocean and South of the North Shore of the Agua Hedionda Lagoon, and North of what is now Cannon Road, and provide design and development guidelines for the expansion of the power plant, then owned by San Diego Gas & Electric Company. The property covered by the original Specific Plan 144 was described in Ordinance 9279 as:

A portion of Lot F of Rancho Agua Hedionda in the County of San Diego and a Portion of Lot H, Rancho Agua Hedionda Map 823, in the City of Carlsbad, and a portion of Block "W" of Palisades No. 2, Map 1803 in the City of Carlsbad, County of San Diego, State of California; also being parcel 6;

page 07, Book 206; Parcels 24,25,26, and 27, Page 01, Book 210; Parcel 21, Page 21, Book 211, and Parcel 14, page 01, Book 212, of the Assessor's map of San Diego County, and more particularly described in application on file in the Office of the City Planner.

As originally adopted, the Specific Plan placed 13 conditions of development on the subject property and provided for methods of enforcement.

On December 4, 1973 the Carlsbad City Council passed Amendment A to Specific Plan 144 in Ordinance 9372 to allow for the construction of a 400-foot stack and removal of the four existing stacks at the Encina Power Station. This amendment became null and void one year later.

On May 4, 1976 Specific Plan 144 was amended again (Amendment B) by the City Council's passage of Ordinance 9456 to permit the construction of a single 400-foot stack at the Encina Power Station to replace the four existing stacks. Amendment B provided a finding that "all conditions of City Council Ordinance 9279 have been complied with and this amendment is consistent with said ordinance and the provisions of the P-U zone." Amendment B to Specific Plan 144 added condition 14 which created design, development, and other requirements for the construction of the 400-foot stack, the removal of the existing stacks, and operation of the power station. Amendment B also provided an exemption to the 400-foot stack and duct work and screening to the 35-foot height limit established by Condition Number 5 of Ordinance 9279.

Amendment C of Specific Plan 144 was adopted on May 3, 1977 by City Council Ordinance 9481 to allow for the construction of water treatment facilities and a maintenance building at the Encina Power Station. Amendment C added condition 15 regarding the development of the water treatment facilities and the maintenance building and amended the map of the specific plan area.

Between 1978 and 1993 three additional amendments to Specific Plan 144 were applied for and withdrawn by SDG&E for changes to the Encina Power Station. Amendment D was proposed to allow connection of unit 5 to the stack, but it was determined that the connection was already allowed and so the amendment was not necessary. Amendment E proposed various improvements to the facility, and Amendment F proposed the addition of a green waste facility. Amendments D, E, and F were all withdrawn and were not incorporated into the Specific Plan 144.

On January 16, 1996 the Carlsbad City Council adopted Ordinance NS-345 amending Specific Plan 144 (Amendment G) to remove 24.2 acres of land from the Specific Plan area. The map of the Specific Plan area was revised to reflect the removal of the acreage.

In 1999, SDG&E sold a significant portion of its holdings within Specific Plan 144 to Cabrillo Power I LLC. Property sold included the Encina Power Station and outer, middle, and inner basins of the Agua Hedionda Lagoon. SDG&E retained ownership of much of the property within the Specific Plan, including land east of Interstate 5 and along the lagoon's south and east shore, the SDG&E construction and operations center located south of the power station, and property along the lagoon's north shore west of Interstate 5.

In 2006, Specific Plan 144(H) accommodated the Carlsbad Seawater Desalination Plant in the Specific Plan and on the Encina Power Station site. Specific Plan 144 (I) was submitted by Carlsbad Energy Center LLC as part of their proposal for power regeneration onsite. This application is pending and may be superseded by the California Energy Commission and related procedures.

On September 22, 2009 the Carlsbad City Council adopted Ordinance No. CS-057 approving Encina Specific Plan SP 144(J) to incorporate Precise Development Plan PDP 00-02(B), for the Encina Power Station and Carlsbad Seawater Desalination Plant.

C. PHYSICAL SETTING

The Specific Plan 144 (SP 144) area is generally bound by public beach areas and the Pacific Ocean to the West, the North Shore of the Agua Hedionda Lagoon on the North, and Cannon Road on the South. The east end of the Specific Plan is bisected by Cannon Road and contains wetland and upland areas east and south of the lagoon. A map showing the boundaries of the Specific Plan area is shown as Exhibit A attached to this document.

The SP 144 area incorporates the Agua Hedionda Lagoon on the West and East sides of the I-5 Freeway and includes agricultural/open space land in the southeast, and the Encina Power Station in the West. The I-5 freeway bisects the Specific Plan area and the AT&SP/North County Transit District Rail Corridor parallels the I-5 Freeway in the Western part of the Specific Plan area and bisects the Encina Power Station. Additionally, Carlsbad Boulevard is located along and just inside the west Specific Plan boundary

and separates the Encina Power Station from the Pacific Ocean. A small portion of the Specific Plan is located west of the freeway and along the lagoon's north shore.

The Specific Plan Boundary is shown in Exhibit A. The distribution, location and extent of the uses of the land, including open space within the area covered by this Specific Plan, are shown in Exhibit B.

II. INFRASTRUCTURE

The Specific Plan area is generally characterized by the Agua Hedionda Lagoon, Encina Power Station and agricultural land. The following description provides the existing distribution, location, extent and intensity of major components of public and private transportation, sewage, water, drainage and solid waste disposal, energy, and other essential facilities located within the area covered by the plan, and which support the existing land uses described in the plan. PDP 00-02 (B), referenced in this Specific Plan, provides information on the Carlsbad Seawater Desalination Project and associated infrastructure, which were approved concurrently with amendment 144(J) to this Specific Plan. PDP 00-02(B) also provides details regarding the existing Encina Power Station.

The desalination project is located on the grounds of the Encina Power Station. Related infrastructure includes conveyance pipelines to carry desalinated water offsite of the power station (and thus outside the boundaries of the PDP and Specific Plan) and into surrounding communities. A portion of the different alignments for the pipelines would cross land within Specific Plan 144 south and east of the power station and east of Interstate 5. Since these offsite pipelines are not located within the PDP, they are subject to different permit requirements.

Other than the infrastructure contemplated in PDP 00-02(B) and other permits related to the Carlsbad Seawater Desalination Project and not yet constructed, and any infrastructure referenced in the previously approved Local Facilities Management Plan described below, there are no other planned or approved, but as yet unbuilt, changes or additions to infrastructure facilities in the Specific Plan area. Because additional growth and development within the Specific Plan area is not proposed, there are no further infrastructure plans proposed to support any development of any existing undeveloped or open space areas within the Specific Plan.

Major infrastructure elements in the Specific Plan area include electrical transmission lines emanating from the Encina Power Station and which extend across the Specific Plan area to the East, the I-5 freeway, the

AT&SP/North County Transit District Rail tracks, Cannon Road and Carlsbad Boulevard. The power plant is served by general water and wastewater facilities that service the greater Carlsbad area.

There are sewer and water lines and a gas main located within the Cannon Road right-of-way. A gas main and sewer force main also extend along the AT&SP/North County Transit District Rail tracks. Other public rights of way in the Specific Plan, such as Cannon Road and Carlsbad Boulevard, support additional infrastructure.

As part of its Growth Management Program, the City of Carlsbad adopted the 1986 *Citywide Facilities and Improvement Plan* in order to implement the City's General Plan and Zoning Ordinance. This plan ensures that development does not occur unless adequate public facilities and services exist or will be provided concurrent with new development. A Local Facility Management Plan (LFMP) has been adopted for all but one of the 25 Facility Zones within the City. The SP 144 area is located within Zone 1, Zone 3 and Zone 13, for which the City has adopted LFMPs. Consistent with the Citywide Plan, each plan contains performance standards (i.e., thresholds) for public facilities and services. This provides the City with quantitative guidance as to whether or not a project will be in conformance with adequate public facility and service provision thresholds. Therefore, projects within the City of Carlsbad are subject to thresholds for circulation, city administrative facilities, fire, schools, libraries, park and recreation resources, open space, wastewater treatment capacity, sewer collection system, drainage/storm water system and water distribution. This Specific Plan incorporates by reference the LFMPs for those parts of the Specific Plan area that fall within Zone 1, Zone 3 and Zone 13.

There are no present proposals for additional development in the Specific Plan area and therefore there will be no additional need for infrastructure facilities at this time beyond those required for the development in the PDP 00-02(B) area. PDP 00-02(B) is consistent with the LFMP for Zone 1 and Zone 3, and infrastructure within the PDP 00-02(B) area will be subject to requirements of PDP 00-02(B).

III. DEVELOPMENT STANDARDS

Generally, the development standards in this Specific Plan are the same as the standards contained in the City of Carlsbad General Plan. This Specific Plan provides for the same Utility, Travel/Recreation Commercial, Residential High Density, and Open Space designations as are indicated in the Carlsbad General Plan as shown in Exhibit B attached to this document.

Further, development standards for the Encina Power Station are contained in PDP 00-02(B).

At this time, there is no additional development proposed for the lagoon or agricultural/open space areas of Specific Plan 144. Regulations for the development of the agricultural and open space areas are included in this Specific Plan and in CMC Chapter 21.209 – Cannon Road Agricultural/Open Space (CR-A/OS) Zone, incorporated herein by reference.

Standards and conditions for the Encina Power Station required as part of the original Specific Plan and Amendments A-G are indicated below. Items 1-13 were found to be complied with in the findings of City of Carlsbad Ordinance 9456. Any development proposed outside the PDP 00-02(B) portion of this Specific Plan 144 will require an amendment to this Specific Plan. Any additional development within the PDP 00-02(B) area will not require an amendment to this Specific Plan unless it is considered a "formal amendment" as described in PDP 00-02(B).

Specific Plan Amendments 144(A-H, J) established the following standards and requirements, (some of which have been satisfied as of the date of Specific Plan 144(K)):

1. That the granting of the requested zoning shall be subject to the remainder of the San Diego Gas and Electric property (portion Lot "F") being annexed to the City of Carlsbad. Also that the area designated on the Specific Plan as "Site of Future Power Plant," east of the freeway, be subject to Specific Plan approval at a later date.
2. All developments within the public utility zone shall be within the conditions specified therein and following.
3. Details concerning the leasing of park lands shall be agreed upon between San Diego Gas and Electric Company and the City within one year after the City has approved final rezoning. Location of baseball little league park and other athletic facilities shall be subject to specific plan approval at the earliest practicable date, it being understood that the present proposed location thereof is disapproved.
4. All buildings shall be subject to architectural review as prescribed in Ordinance No. 9268 prior to issuance of a

building permit to assure a maximum amount of design compatibility with the neighborhood and existing facilities.

5. The heights of future power generating buildings and transmission line tower structures shall be of heights and of a configuration similar to existing facilities. All storage tanks shall be screened from view. No other structure or building shall exceed thirty five (35') feet in height unless a specific plan is approved at a public hearing.
6. All fuel storage tanks shall be recessed and used for those oils which, upon being consumed, shall not have a sulfur content exceeding .50 percent; being that percentage commonly associated with the term "low sulfur fuel oil."
7. Landscape and irrigation plans prepared by a registered landscape architect shall be submitted in conformance with Ordinance No. 9268 for the screening of existing facilities. Plans shall be submitted within two years and must provide a schedule for installation.
8. That the proposed site for a future power generating facility on the East side of Interstate 5 shall be planned so as to be compatible with the present facility. The facilities shall meet the requirements of the State and Federal regulations and shall be environmentally compatible with the City of Carlsbad.
9. All signs shall be in conformance with City ordinances within 90 days.
10. Exterior lighting shall be oriented so that adjacent properties shall be screened from glare or a direct light source.
11. Prior to any construction, detailed plans shall be submitted to the City of Carlsbad Fire Department to assure:
 - a) Necessary fire protection requirements.
 - b) Suitable access roads for fire fighting purposes.

- c) Necessary yard mains and fire hydrants.
 - d) Other fire protection devices or appliances deemed necessary.
12. That the applicant dedicate right-of-way for that portion of the width of Cannon Road (102' R/W) which falls within the applicant's property East of I-5. The alignment shall be subject to the approval of the City Engineer and Planning Director.
13. That the following conditions of public improvements for Cannon Road and Carlsbad Boulevard be complied with:
- A. Carlsbad Boulevard.
 - 1) Construct street improvements including curb, gutter, sidewalks, street lights and up to 20 feet of paving along each side where SDG&E property has frontage, excepting public beaches and property dedicated for public parks. Construction may be deferred until mutually agreeable to the City and the Company except that the safety of the driving and walking public will be considered. The improvements may be financed by assessment district.
 - B. Cannon Road.
 - 1) Construct full street improvements for ½ street from Carlsbad Boulevard to a point approximately 600 feet easterly of I-5 along frontage owned by SDG&E, timing to be subject to approval of City, but in any event not before development of property adjoining the south side of Cannon Road or the institution of an assessment district.
 - 2) Dedicate full right of way (102 feet) for that portion of Cannon Road easterly of I-5 which falls within SDG&E property.
 - 3) Construction of improvements easterly of B-1 may be deferred until property easterly of I-5 is developed. Agreement on grade development and spreading of construction cost shall be mutually agreeable

to the City and the Company. The City policy for improvement of such streets shall be considered.

C. Access roads shall be subject to City approval.

14. In addition to the above conditions, the revised portions of the specific plan which permit the construction of the 400-foot stack and the removal of the four existing stacks shall be accomplished in accord with the revised specific plan SP-144B and shall be subject to the following conditions:

(A) All applicable requirements of any law, ordinance or regulations of the State of California, City of Carlsbad, and any other governmental entity shall be complied with.

(B) All ground lighting shall be arranged to reflect away from adjoining properties and streets.

(C) Any mechanical and/or electrical equipment to be located on the roof of the structure shall be screened in a manner acceptable to the Planning Director. Detailed plans for said screening shall be submitted, in triplicate, to the Planning Director for approval.

(D) Air pollution equipment capable of monitoring ambient particulates, NO_x and SO₂ concentrations and other emissions from the Encina Plant as well as air quality in the Carlsbad area shall be placed in service not later than six months following the effective date of this ordinance. The number of stations, type of equipment and location of stations shall be to the satisfaction of the APCD Control Officer and the City of Carlsbad. Should the Air Pollution Control Officer of the San Diego County Air Pollution Control District require additional air quality or emissions monitoring equipment and funds for air quality analysis in connection with their current study of emissions from the Encina Power Plant, the applicant shall supply said equipment and funds as deemed necessary by the Air Pollution Control Officer. The cost of said equipment shall not exceed \$150,000. The requested funds for air quality analysis shall not exceed \$50,000 per year.

(E) Any future measure required by the San Diego County Air Pollution Control District to lessen or otherwise control emissions from the Encina Power Plant are hereby incorporated as a part of this Specific Plan Amendment and SDG&E shall comply fully therewith. The costs of such measures shall be borne by SDG&E.

(F) SDG&E will obtain a report of compliance from the City staff regarding the conditions of this ordinance and from the San Diego County Air Pollution Control Officer regarding compliance with the applicable conditions of the ordinance and with air quality standards, and forward it to the City Council five years from the date of this ordinance or as otherwise required by motion of the City Council, or the Planning Commission. The Planning Commission and City Council shall review the report with regard to conformance to the conditions of this ordinance and to regulations required by other applicable regulatory agencies, including, but not limited to, the San Diego County Air Pollution Control District, Public Utilities Commission and State Coastal Commission. The City reserves the right to amend this specific plan SP-144B as necessary to add conditions to ensure such compliance. After the initial report is filed the City Council may, by motion, require additional reports as they deem necessary.

(G) In the event that the City of Carlsbad determines that the 400-foot stack is no longer necessary as a method of air emission dispersion, the 400-foot stack shall be removed at the applicant's expenses. The applicant may request an amendment to this specific plan to provide a reasonable extension of the period for such removal.

(H) The applicant shall make a formal commitment to conduct the studies necessary to determine what operating practices and/or emissions control devices are capable of eliminating the particulate "fallout" problem. A schedule for the completion of the studies shall be established which is satisfactory to the San Diego County Air Pollution Control District Officer, the Air Pollution Control District Hearing Board or Court of Law. SDG&E shall fully comply with the abatement order entered in petition No. 607.

The applicant shall further agree to pay claims for property damage resulting from the "fallout" problem until compliance with the abatement order is achieved.

The particulate "fallout" problem shall be controlled to the satisfaction of the City Council of the City of Carlsbad and of the Air Pollution Control Officer prior to the final building permit clearance for Encina 5 and the single stack.

(I) Not later than eight months after the Building Inspector signs the final inspection for the 400-foot stack, the four stacks on the existing Encina Power Plant shall be completely removed.

(J) SDG&E shall file an annual report with the City Council regarding improvements in plant and operating procedures during the preceding year which reduce the emission of air pollutants resulting from the operation of Encina Units 1, 2, 3 and 4.

(K) SDG&E shall operate the plant in full compliance with all air quality standards as are or may be established by the APCD. If the monitoring stations indicate the standards are being exceeded at any time, SDG&E shall comply with all directions of APCD to reduce, through any reasonable means, pollutants from the plant.

(L) In the event SDG&E files for a variance or other form of administrative or legal relief from the requirements of APCD, they shall concurrently forward a copy of any such filing, or any subsequent communications in connection therewith, to the City of Carlsbad.

15. In addition to the above conditions, the revised portions of the specific plan which permits the construction of water treatment facilities and a maintenance building shall be accomplished in accord with the revised specific plan SP-144(C) and the plot plan marked Exhibit A, dated January 31, 1977, attached hereto and made a part hereof, and shall be subject to the following conditions:

A. The water treatment ponds shall be constructed and maintained to the following standards to minimize the

likelihood of the ponds serving as mosquito breeding sources:

1. Confine standing water impoundment to as small an area as possible.
2. All pond areas shall be lined with a nonporous material acceptable to the City Engineer.
3. Maintain a removal program of dense aquatic vegetation, such as cattails, bulrush, tule, pondweed, etc.
4. Maintain a mosquito fish (*Gambusia affinis*) population, as necessary.
5. Maintain routine (weekly) inspections of water impoundments to detect mosquito breeding.
6. Abate any mosquito breeding, as it is detected.

B. Prior to the issuance of building permits for the maintenance building, the applicant shall submit a plot plan to the Planning Director for review and approval showing which existing shops and storage activities are to be removed and consolidated into the new structure.

Standards and criteria by which development will proceed at the Encina Power Station are set forth in PDP 00-02 (B) (adopted concurrently with Specific Plan amendment 144(J)) and are hereby incorporated into this document by reference. The P-U zoning district, Zoning Ordinance Chapter 21.36, is the primary source of the standards and conditions established within PDP 00-02 (B). Other standards and conditions in PDP 00-02 (B) originate from related regulations and documents discussed in Chapter III of PDP 00-02 (B).

As described in PDP 00-02 (B), any formal amendments to PDP 00-02 (B) will be incorporated into the Specific Plan 144 and will require an amendment to this Specific Plan.

Other land use regulations applicable to Specific Plan 144 include the following:

- The Agua Hedionda Land Use Plan. Specific Plan 144 is entirely within the boundaries of the Agua Hedionda Land Use Plan, which is part of the City's Local Coastal Program,
- The South Carlsbad Coastal Redevelopment Plan (SCCRP). The SCCRCP encompasses within its boundaries the western half of Specific Plan 144, including a portion of the agricultural land east of I-5 and the majority of the area west of I-5 (including the Encina Power Station).
- The Cannon Road Agricultural/Open Space Zone (CMC Chapter 21.209). A portion of the SP 144 area east of I-5 is included in the Cannon Road Agricultural/Open Space (CR-A/OS) Zone and all development and uses in this portion of the Specific Plan shall be subject to the provisions of that zone.

Furthermore, Specific Plan requirements shall not be required of, or applied to, uses regulated by the California Public Utilities Commission (CPUC).

IV. IMPLEMENTATION

Specific Plan Amendment 144(J) authorizes no new development in the Specific Plan area over and above that allowed by Precise Development Plan 00-02(B). The City of Carlsbad has instituted zoning regulations for the area covered by Specific Plan 144(J). In the future, any amendment to the Carlsbad Zoning Ordinance affecting an area covered by this Specific Plan will require zoning to be consistent with this Specific Plan per Government Code section 65455.

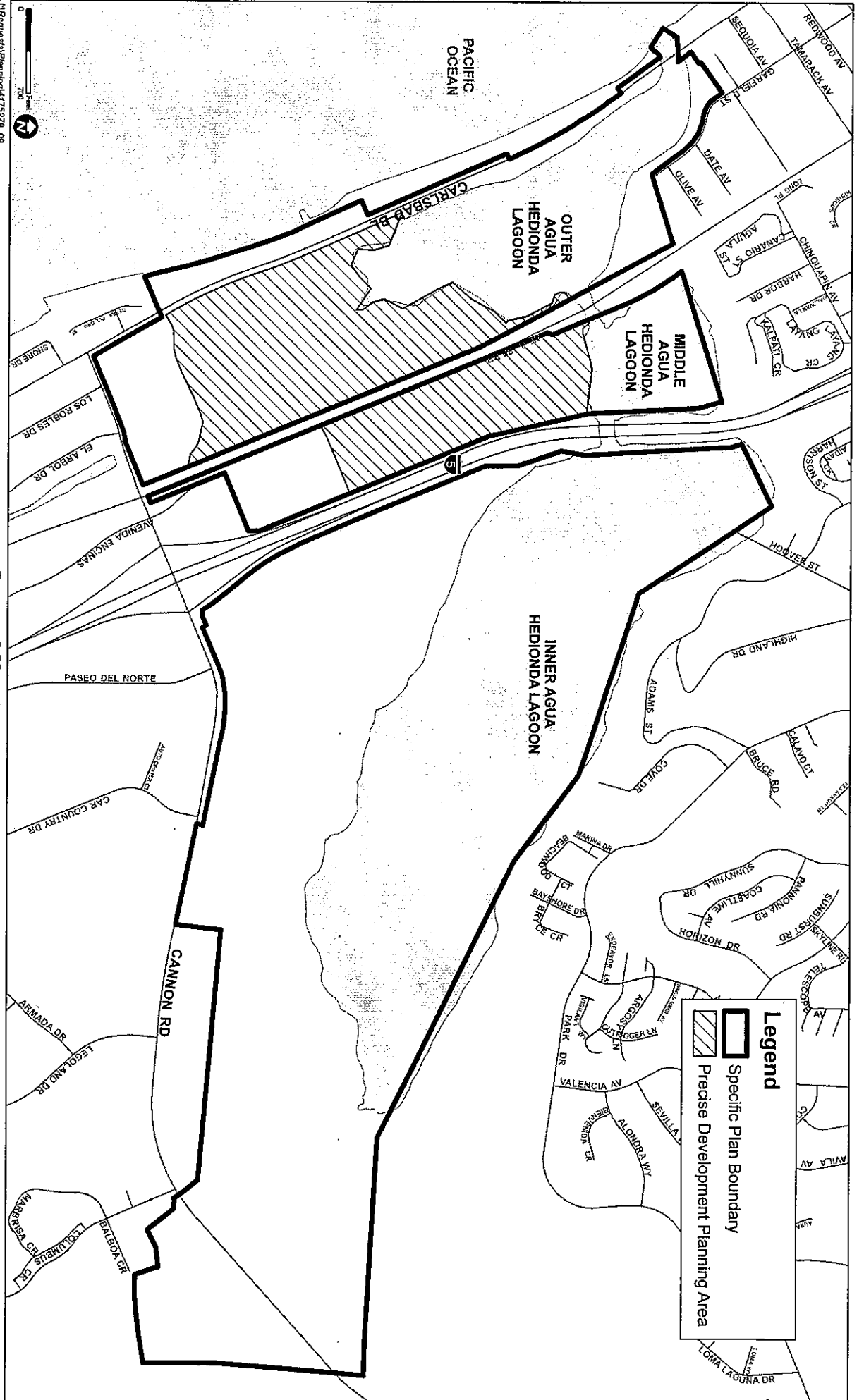
V. RELATIONSHIP TO THE GENERAL PLAN

SP 144 incorporates the Carlsbad General Plan land use designations for the area covered by the Specific Plan. The Specific Plan is therefore consistent with the General Plan as shown in Exhibit B attached to this document. It should be noted that zoning of certain areas covered by SP 144 is not consistent with General Plan land use designations shown in Exhibit C attached to this document.

The General Plan for the City of Carlsbad designates the land contained in the SP 144 area as RH "Residential High Density," U "Public Utility," OS "Open Space," and T-R "Travel/Recreation Commercial." The Encina Power Station is designated U and the majority of the remaining Specific Plan area is designated OS. The General Plan states that the Utility designation's "primary functions include such things as the generation of electrical energy, treatment of waste water, and operating facilities, or other primary utility functions designed to serve all or a substantial portion of the community."

The Specific Plan provides regulations for the development of the Encina Power Station which provides "generation of electrical energy," and incorporates the PDP 00-02(B). The PDP serves as a permit for the Carlsbad Seawater Desalination Project, which would provide "primary utility functions designed to serve all or a substantial portion of the community," by augmenting potable drinking water supplies for the City of Carlsbad. Thus, the power station and desalination plant are uses consistent with the provisions of the General Plan. Other than the desalination plant, Specific Plan 144(J) authorizes no additional development.

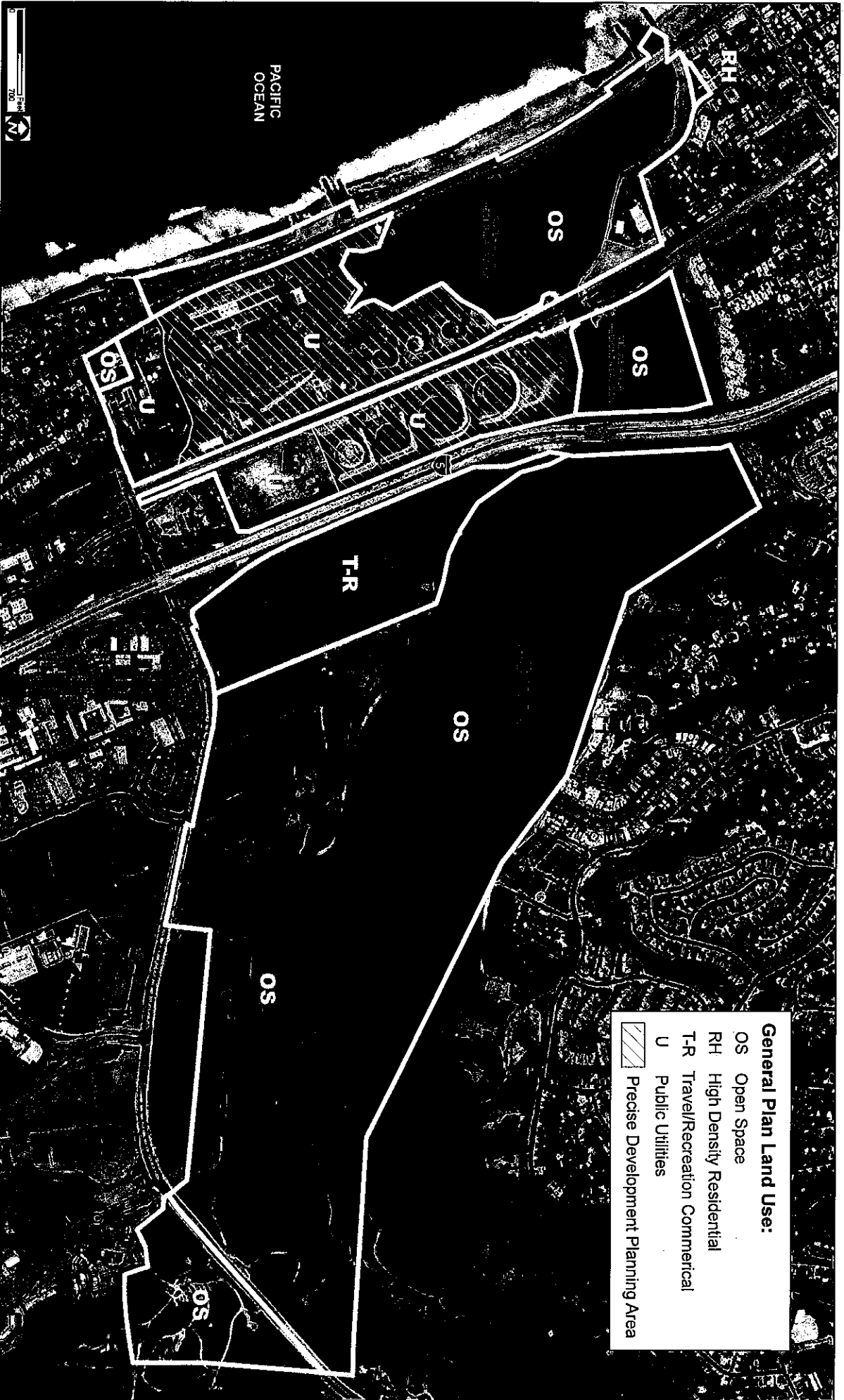
Additional areas covered by SP 144 include the Agua Hedionda Lagoon, property along the north shore of the lagoon and west of Interstate 5, the agricultural/open space area East of the I-5 freeway along the lagoon's south shore, and wetland and upland areas at the east end of the lagoon on either side of Cannon Road. The majority of these additional areas are designated Open Space. SP 144(K) includes a revision to Exhibit C to identify lands within SP 144 which are subject to "Proposition D - Preserve the Flower and Strawberry Fields and Save Taxpayer's Money" and the Cannon Road Agricultural/Open Space (CR-A/OS) Zone. The specific plan does not provide for any new development to occur in these areas, which besides Open Space are designated as Travel/Recreation Commercial, and Residential High Density. In doing so, the Specific Plan maintains consistency with and enables implementation of the goals of the Land Use and Open Space Elements of the Carlsbad General Plan.



**Specific Plan 144
Specific Plan 144 Boundary Map**

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Exhibit A



General Plan Land Use:

- OS Open Space
- RH High Density Residential
- T-R Travel/Recreation Commercial
- U Public Utilities
-  Precise Development Planning Area

**Specific Plan 144
General Plan Map**

