

## CALIFORNIA COASTAL COMMISSION

## RECORD PACKET COPY

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February 18, 1997

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TO: COMMISSIONERS AND INTERESTED PERSONS

FROM: CHUCK DAMM, SOUTH COAST DEPUTY DIRECTOR  
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO DISTRICT OFFICE  
LEE MCEACHERN, COASTAL PLANNER, SAN DIEGO DISTRICT OFFICE  
ELLEN LIRLEY, COASTAL PLANNER, SAN DIEGO DISTRICT OFFICE

SUBJECT: REVISED FINDINGS FOR CERTIFICATION OF MAJOR AMENDMENT 2-96 (Del Mar Mesa/Carmel Valley Neighborhood 10/Regulatory Relief) TO THE CITY OF SAN DIEGO LOCAL COASTAL PROGRAM (For public hearing and possible final action at the Coastal Commission Hearing of March 11-14, 1997)

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SYNOPSISSUMMARY OF COMMISSION ACTION

At its meeting of November 12, 1996, the Coastal Commission reviewed a request to amend both the Land Use Plan (LUP) and Implementation Plan (IP) components of the certified City of San Diego Local Coastal Program (LCP) addressing a number of unrelated matters. In its action, the Commission approved, as submitted, amendments to the certified North City Future Urbanizing Area Framework Plan/LUP to incorporate the concept of a specific plan at existing densities for Subarea V (rather than the Subarea Plan previously called for), and amendments to the certified Carmel Valley Neighborhood 10 Precise Plan/LUP to clarify procedures regarding local discretionary actions and change the title applied to a trail within the community. It rejected, as submitted, an amendment proposal to incorporate the Del Mar Mesa Specific Plan for North City Future Urbanizing Area - Subarea V, then approved the amendment with suggested modifications, some of which revised the staff's original recommendation. The Commission also approved, as submitted, amendments to the Implementing Ordinances relative to special permit procedures for grading in hillside review areas, determination of legal lots, non-conforming uses, and changes to the A1 Zones and the Planned Residential Development Ordinance to incorporate criteria relative to the Del Mar Mesa Specific Plan. The Commission rejected, as submitted, all proposed amendments to the Resource Protection Ordinance because that ordinance is not part of the certified LCP.

The City had also proposed an IP amendment (Ordinance Number 0-18322) that categorically excluded certain development from coastal development permit requirements.

However, the Commission cannot adopt categorical exclusions as LCP amendments. The Coastal Act and regulations require the Commission to adopt categorical exclusions in a different manner than LCP amendments. Categorical exclusions are adopted pursuant to a different standard of review and different voting procedure than LCP amendments. In addition, Commission adoption of categorical exclusions is subject to CEQA's EIR and Declaration requirements. Therefore, it was determined that the ordinance categorically excluding development from permit requirements was not properly before the Commission as an LCP amendment and staff withdrew its recommendation. Thus, the Commission did not certify City of San Diego Ordinance Number 0-18322. Instead, Commission staff will work with the City to process the categorical exclusions in accordance with the applicable Coastal Act requirements.

Most of the findings herein are identical to those in the October 24, 1996 staff report, with revisions relative to the Del Mar Mesa Specific Plan only. There are no findings in this report addressing categorical exclusions since those items were not part of the Commission's action on November 12, 1996.

#### COMMISSION VOTES

1. Carmel Valley Neighborhood 10 Precise Plan and North City Future Urbanizing Area Framework Plan, approve as submitted:

Commissioners Voting "Yes": Areias, Belgard, Flemming, Giacomini, Pavley, Rick, Wright, Steinberg, Wan, Wear and Chairman Calcagno

Commissioners Voting "No": none

2. Del Mar Mesa Specific Plan, approve as submitted:

Commissioners Voting "Yes": none

Commissioners Voting "No": Areias, Belgard, Flemming, Giacomini, Pavley, Rick, Wright, Steinberg, Wan, Wear and Chairman Calcagno

3. Del Mar Mesa Specific Plan, approve if modified:

Commissioners Voting "Yes": Areias, Belgard, Flemming, Giacomini, Pavley, Rick, Wright, Steinberg, Wan, Wear and Chairman Calcagno

Commissioners Voting "No": none

4. Subdivision Ordinance, Municipal Code Definitions, General Regulations Ordinance, A-1 Zones and Planned Residential Development Ordinance, reject as submitted:

Commissioners Voting "Yes": none

Commissioners Voting "No": Areias, Belgard, Flemming, Giacomini, Pavley, Rick, Wright, Steinberg, Wan, Wear and Chairman Calcagno

5. Resource Protection Ordinance, reject as submitted:

Commissioners Voting "Yes": Areias, Belgard, Flemming, Giacomini, Pavley, Rick, Wright, Steinberg, Wan, Wear and Chairman Calcagno

Commissioners Voting "No": none

#### SUMMARY OF AMENDMENT REQUEST

The City of San Diego's submittal consists of requests to amend the certified City of San Diego Local Coastal Program (LCP) Land Use Plan to incorporate the Del Mar Mesa Specific Plan for North City Future Urbanizing Area - Subarea V, with associated amendments to the certified North City Future Urbanizing Area Framework Plan, and to revise the previously-certified Carmel Valley Neighborhood 10 Precise Plan. Both of these areas are within the North City LCP segment. Also, the proposal would amend the Implementing Ordinances relative to special permit procedures for grading in hillside review areas; determination of legal lots; non-conforming uses; changes to various ordinances relative to categorical exclusions for single-family development; and changes to the A1 Zones, the Planned Residential Development Ordinance and the Resource Protection Ordinance to incorporate criteria relative to the Del Mar Mesa Specific Plan.

#### ADDITIONAL INFORMATION

Further information on the City of San Diego LCP Amendment #2-96 may be obtained from Lee McEachern (special permits, non-conforming uses and legal lots) and Ellen Lirley (Carmel Valley Neighborhood 10 Precise Plan, North City Future Urbanizing Area Framework Plan, Del Mar Mesa Specific Plan and associated ordinance revisions), Coastal Planners at (619) 521-8036.

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## PART I. OVERVIEW

### A. LCP HISTORY

The City of San Diego has a long history of involvement with the community planning process; as a result, in 1977, the City requested that the Coastal Commission permit segmentation of its Land Use Plan (LUP) into twelve (12) parts in order to have the LCP process conform, to the maximum extent feasible, with the City's various community plan boundaries. In the intervening years, the City has intermittently submitted all of its LUP segments; all of the segments are presently certified, in whole or part, with the exception of Mission Bay. The earliest land use plan (LUP) approval occurred in May 1979, with others occurring in 1988, in concert with the implementation plan.

When the Commission approved segmentation of the LUP, it found that the implementation phase of the City's LCP would represent a single unifying element. This was achieved in January 1988, and the City of San Diego assumed permit authority in October 17, 1988 for the majority of its coastal zone. Several isolated areas of deferred certification remain; these are completing planning at a local level and will be acted upon by the Coastal Commission in the future.

Since effective certification of the City's LCP, there have been seventeen major amendments and seven minor amendments processed for it. These have included everything from land use revisions in several segments and the rezoning of single properties, to modifications of city-wide ordinances. While it is difficult to calculate the number of land use plan revisions or implementation plan modifications, because the amendments often involve multiple changes to a single land use plan segment or ordinance, the Commission has reviewed, at least 39 land use plan revisions and 95 ordinance amendments. Most amendment requests have been approved, some as submitted and some with suggested modifications; further details can be obtained from the previous staff reports and findings on specific amendment requests.

### B. STANDARD OF REVIEW

The standard of review for land use plans, or their amendments, is found in Section 30512 of the Coastal Act. This section requires the Commission to certify an LUP or LUP amendment if it finds that it meets the requirements of Chapter 3 of the Coastal Act. Specifically, it states:

#### Section 30512

(c) The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200). Except as provided in

paragraph (1) of subdivision (a), a decision to certify shall require a majority vote of the appointed membership of the Commission.

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

### C. PUBLIC PARTICIPATION

The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

## PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

The Commission adopted the following resolutions and findings following the public hearing.

- A. RESOLUTION I (Resolution to approve certification of the Carmel Valley Neighborhood 10 Precise Plan Land Use Plan Amendment and the North City Future Urbanizing Area Framework Plan, as submitted)

### Resolution I

The Commission hereby approves certification of the amendment request to the Carmel Valley Neighborhood 10 Precise Plan and the North City Future Urbanizing Area Framework Plan, and adopts the findings stated below on the grounds that the amendment will meet the requirements of and conform with the policies of Chapter 3 (commencing with Section 30200) of the California Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act; the land use plan, as amended, will contain a specific access component as required by Section 30500 of the Coastal Act; the land use plan as amended will be consistent with applicable decisions of the Commission that shall guide local government actions pursuant to Section 30625(c); and certification of the land use plan amendment meets the requirements of Section 21080.5(d)(2)(i) of the California Environmental Quality Act, as there would be no feasible measures or feasible alternatives which would substantially lessen significant adverse impacts on the environment.

- B. RESOLUTION II (Resolution to deny certification of the Del Mar Mesa Specific Plan Land Use Plan Amendment, as submitted)

Resolution II

The Commission hereby denies certification of the amendment request to the Del Mar Mesa Specific Plan, and adopts the findings stated below on the grounds that the amendment will not meet the requirements of and conform with the policies of Chapter 3 (commencing with Section 30200) of the California Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act; the land use plan, as amended, will not be consistent with applicable decisions of the Commission that shall guide local government actions pursuant to Section 30625(c); and certification of the land use plan amendment does not meet the requirements of Section 21080.5(d)(2)(i) of the California Environmental Quality Act; as there would be feasible measures or feasible alternatives which would substantially lessen significant adverse impacts on the environment.

- C. RESOLUTION III (Resolution to approve certification of the Del Mar Mesa Specific Plan Land Use Plan Amendment, if modified)

Resolution III

The Commission hereby certifies the amendment request to the Del Mar Mesa Specific Plan, if modified, and adopts the findings stated below on the grounds that the amendment will meet the requirements of and conform with the policies of Chapter 3 (commencing with Section 30200) of the California Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act; the land use plan, as amended, will contain a specific access component as required by Section 30500 of the Coastal Act; the land use plan, as amended, will be consistent with applicable decisions of the Commission that shall guide local government actions pursuant to Section 30625(c); and certification of the land use plan amendment does meet the requirements of Section 21080.5(d)(2)(i) of the California Environmental Quality Act; as there would be no feasible measures or feasible alternatives which would substantially lessen significant adverse impacts on the environment.

- D. RESOLUTION IV (Resolution to approve certification of portions of the City of San Diego Implementation Plan Amendment #2-96 [relative to the Subdivision Ordinance, Municipal Code Definitions, General Regulations Ordinance, A-1 Zones and Planned Residential Development Ordinance], as submitted)

#### Resolution IV

The Commission hereby approves certification of the amendment to the Implementation Plan of the City of San Diego LCP on the grounds that the amendment conforms with, and is adequate to carry out, the provisions of the certified land use plan. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the approval would have on the environment.

- E. RESOLUTION V (Resolution to reject certification of portions of the City of San Diego Implementation Plan Amendment #2-96 [relative to the Resource Protection Ordinance], as submitted)

#### Resolution V

The Commission hereby rejects the amendment to the Implementation Plan of the City of San Diego LCP on the grounds that it does not conform with, and is inadequate to carry out, the provisions of the certified land use plan. There are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the approval would have on the environment.

### PART III. SUGGESTED MODIFICATIONS

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

#### Land Use Plan Modifications (Del Mar Mesa Specific Plan).

1. On Page 18 of the Specific Plan, and as previously modified on Pages 3, 4 and 5 of the Del Mar Mesa Specific Plan - Errata Sheet, the following shall be added as a new paragraph under A. Land Use, Section 5. Affordable Housing:

e. Within the coastal zone, increased density achieved through provisions of State law mandating density bonuses shall not result in greater encroachment in designated Resource-based Open Space or augmentation of any circulation element road beyond what is adopted in the Del Mar Mesa Specific Plan.

2. On Page 23 of the Specific Plan, the first paragraph of 5. MSCP Preserve Boundary and Criteria for Adjustment shall be modified as follows:

For more specific definition of the Subarea V open space boundary and proposed MSCP Preserve boundary, refer to the 400-scale map adopted as Exhibit A. It is anticipated that federal and state authorities will authorize the City to make minor adjustments to the proposed MSCP Preserve Boundary with subsequent tentative map approvals or other discretionary permit approvals without the need to amend the Del Mar Mesa Specific Plan. Within the coastal zone, adjustments consistent with the MSCP implementing agreement between the City of San Diego, the California Department of Fish and Game and the U.S. Fish and Wildlife Service, will not require an amendment to the LCP. The criteria for making these adjustments is proposed to be based on whether the resulting change maintains a preserve area that is equivalent in biological value to the original configuration or is of higher biological value. Within the Coastal Zone, boundary adjustments which result in an amendment to the Del Mar Mesa Specific Plan due to modification of Figure 7 of the Del Mar Mesa Specific Plan will require an amendment to the certified Local Coastal Program.

3. On Page 57 of the Specific Plan, the second and third paragraphs under E. Coastal Element shall be modified as follows:

The Del Mar Mesa Specific Plan, in addition to the Framework Plan, constitutes the land use plan segment for Subarea V within the City's LCP. This plan is intended to implement the Framework Plan and the North City LCP.

Both the Del Mar Mesa Specific Plan, and plan amendments and ordinances necessary to implement the specific plan require certification by the California Coastal Commission in order to become effective in the Coastal Zone areas. Upon certification of the Del Mar Mesa Specific Plan by the Coastal Commission, and after the City Council accepts any revisions to the plan requested by the Commission and formally requests a transfer of permit authority, the City shall may assume coastal permit authority for Coastal Zone areas within Subarea V.

4. On Page 85 of the Specific Plan, the following paragraph shall be added under G. FACILITIES FINANCING AND FEES:

Los Penasquitos Lagoon Enhancement Fund

Applicants for coastal development permits for projects located in the watershed of Los Penasquitos Lagoon shall, in addition to meeting all other requirements of this local coastal program, enter into an agreement with the City of San Diego and the State Coastal Conservancy as a condition of development approval to pay a Los Penasquitos watershed restoration and enhancement fee to the Los Penasquitos Lagoon Fund for restoration of the Los Penasquitos Lagoon and its watershed.

PART IV. FINDINGS FOR APPROVAL OF CERTIFICATION OF THE CARMEL VALLEY NEIGHBORHOOD 10 PRECISE PLAN AND NORTH CITY FUTURE URBANIZING AREA FRAMEWORK PLAN LAND USE PLAN AMENDMENTS, AS SUBMITTED

A. AMENDMENT DESCRIPTION

1. Carmel Valley Neighborhood 10 Precise Plan

The City of San Diego is proposing a number of modifications to its previously-certified land use plan for Neighborhood 10 of the Carmel Valley community, which is a subsection of the North City LCP segment. The Carmel Valley community is located about 20 miles north of downtown San Diego, but is within the overall city limits. It is east of Interstate 5 and south of State Route 56, and includes portions of the canyons and mesas between Los Penasquitos Canyon Preserve and Carmel Valley. The Neighborhood 10 Precise Plan includes approximately 806 acres of land, but only approximately 62 acres, located along the southern boundary, are within the coastal zone. The proposed amendment would redesignate some of the land uses in Area 9 of the community, add one new exhibit and change a number of existing tables and figures of the certified plan. The amendment would also make several changes in the text of the planning document as well. With only two exceptions, all of these changes, including the Area 9 land use redesignations, occur outside the coastal zone.

The Commission acknowledges all of these changes to the Precise Plan, which was incorporated into the certified LCP as a whole, but only analyzes those changes within the coastal zone for consistency with Coastal Act policies. One change proposes to replace the second sentence of the second paragraph on Page 100 of the certified Precise Plan. The existing, certified language states: "A RPO Permit shall be issued for all subsequent development proposals which demonstrate consistency with this Precise Plan." The proposed new sentence reads: "A RPO Permit or a permit pursuant to any ordinance which supersedes RPO shall be issued for all subsequent development proposals which demonstrate consistency with this Precise Plan." (emphasis added). The other coastal zone change is to Figure 16A (Alternative Transportation Facilities); it changes the written description of a trail (in the same alignment as certified) from "Equestrian/Pedestrian Trail" to "Existing Natural Trail."

2. North City Future Urbanizing Area (FUA) Framework Plan

The Commission certified the North City FUA Framework Plan in 1993, with a number of suggested modifications. The plan was intended to be conceptual only, with a requirement that subarea plans be drafted for each of the five subareas shown in the plan. The subarea plans were intended to contain the level of detail necessary to be certified by the Coastal Commission as the LCP land use plans for this part of the City of San Diego. The entire

FUA is currently in agricultural "holding zones" until more detailed planning is completed. These A-1 Zones allow minimal residential development (such as one dwelling per 10 acres in the A-1-10 Zone) and other uses typically associated with agriculture or open space. It was expected that each subarea would propose to develop at increased densities, which under the requirements of Proposition A, a growth control measure approved by the voters in 1985, would require approval of the electorate prior to implementation.

The City ultimately decided to prepare a specific plan for Subarea V (Del Mar Mesa), retaining the existing zoning, such that voter approval is not required. However, the development is to be clustered in the western portions of the subarea, with the eastern area preserved in open space. The Del Mar Mesa Specific Plan has been submitted for Commission approval and is addressed in this report. The proposed amendments to the North City FUA Framework Plan just incorporate the concept of a specific plan at existing densities for this particular subarea. The amendments allow clustering options in this subarea only which result in densities exceeding those normally allowed and provide the parameters for such options. The Framework Plan amendments also provide that other subareas may also utilize this approach, but would need to amend the plan to do so. The subject requested Framework Plan amendments are intended to make the existing Framework Plan and proposed Del Mar Mesa Specific Plan consistent.

#### B. CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT

The Commission finds, pursuant to Section 30512.2b of the Coastal Act, that portions of the Land Use Plan as set forth in the preceding resolutions, are not in conformance with the policies and requirements of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act which states:

The legislature further finds and declares that the basic goals of the state for the Coastal Zone are to:

- a) Protect, maintain and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and manmade resources.
- b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.
- c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights or private property owners.
- (d) Assure priority for coastal-dependent and coastal-related development over other development on the coast.

(e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

The Commission therefore finds, for the specific reasons detailed below, that the land use plan conforms with Chapter 3 of the Coastal Act and the goals of the state for the coastal zone.

### C. CONFORMITY WITH CHAPTER 3

#### 1. Carmel Valley Neighborhood 10 Precise Plan

The Commission certified the Neighborhood 10 Precise Plan in February, 1995 with suggested modifications addressing public access and the protection of biological and visual resources. The City accepted the suggested modifications and the plan became effectively certified in June, 1995. In this particular amendment request, the changes within the coastal zone are narrative changes to the planning document only, and, because they do not modify the types or locations of land uses, or the development criteria applied thereto, they do not result in any impacts on coastal resources.

The amendment changing the designation of a delineated trail from an "Equestrian/Pedestrian Trail" to an "Existing Natural Trail" in Figure 16A of the plan does not change the trail's alignment or function. The one trail heading southeast through the community into Los Penasquitos Canyon Preserve, as shown in Figure 16A is the only trail with any portion of its alignment in the coastal zone. The original plan identified this as an equestrian trail only; through a suggested modification, the Commission required that the term "pedestrian" be added to the identification, to assure the trail provided the maximum public access into the Preserve, a public open space system. In the subject amendment, the City proposes to identify all trails as "existing natural trails" and not distinguish between equestrian and pedestrian uses, but allow both uses in the subject coastal zone trail location. Thus, with the proposed amendment, the Carmel Valley Neighborhood 10 Precise Plan remains consistent with Section 30210 of the Coastal Act, which requires the provision of maximum access and recreational opportunities.

The other proposed amendment that applies to the plan as a whole, and thus could apply in the coastal zone, addresses the Resource Protection Ordinance (RPO). The RPO provides development criteria for proposals in, or adjacent to, steep slopes, wetlands, environmentally sensitive habitats and floodplains; this ordinance is not part of the City's certified implementation plan. It had been the City's original intent to only apply the RPO to areas outside the coastal zone, as an added level of discretionary review in those locations, and to incorporate outside of the coastal zone a similar level of protection as are provided within the coastal zone by the Hillside Review (HR) and Sensitive Coastal Resource (SCR) Overlays. Within the coastal zone, coastal development permits provided an equivalent level of review, and are described as alternative compliance within the RPO.

Existing language in the certified Neighborhood 10 document provides that an RPO permit shall be issued for all future developments demonstrating consistency with the plan. The changed language would provide that not only an RPO permit, but a permit issued pursuant to any ordinance superseding the RPO, would be approved for developments consistent with the Neighborhood 10 plan.

When the Commission first reviewed the Neighborhood 10 Precise Plan, it found the plan, as submitted, inconsistent with Chapter 3 policies due to the plan's total reliance on the uncertified RPO to address steep slope issues. The concerns were (1) that the RPO is generally not applicable within the coastal zone, (2) the RPO is not part of the certified LCP implementation plan, and (3) the RPO does not include all the specific provisions of the Hillside Review (HR) Overlay, which is part of the certified LCP and protects biological, visual and geological resources on slopes of 25% or greater gradient. The HR Overlay is based on city-wide mapping and is applied both within and without the coastal zone, but was not included as an implementation tool for the Neighborhood 10 plan. Instead the City chose the RPO as an appropriate implementing mechanism. Ultimately, the Commission approved Neighborhood 10 with a suggested modification incorporating the provisions of HR into the plan. With that, and other, suggested modifications, the Commission found the Carmel Valley Neighborhood 10 Specific Plan consistent with Sections 30240, 30251 and 30253 of the Coastal Act, which address biological, visual and geological resources respectively.

The City is currently reviewing and updating its entire municipal code with respect to planning and zoning provisions, including a redrafting of the RPO. The proposed amendment is intended to allow any future successor ordinance to the RPO to be applicable in this community. Of late, the City has been applying the RPO within the coastal zone, along with any other applicable discretionary reviews (such as HR or SCR). However, since hillside development within the coastal zone must be consistent with the parameters of HR, in addition to, if not instead of, the RPO, the proposed language will not adversely impact coastal resources. This conclusion is based on the fact that HR, in conjunction with coastal development permit review, is what affords the most significant level of resource protection, and, because of the Commission's prior approval, is fully applicable within Neighborhood 10. Thus, it is irrelevant what other discretionary reviews the City may apply, now or in the future, since the required protections remain in place for all projects in the coastal zone. Therefore, the Commission finds the proposed LCP amendment allowing issuance of permits pursuant to either the RPO or a future ordinance superseding the RPO for future development in Neighborhood 10 consistent with the cited Chapter 3 policies of the Act.

## 2. North City Future Urbanizing Area (FUA) Framework Plan

The Framework Plan as a whole has been found consistent with Chapter 3 of the Coastal Act in prior Commissions actions, which included the adoption of several suggested modifications. The currently-proposed amendments do not modify or remove any certified

goals or policies, but only add new language addressing a specific plan for Subarea V. They provide criteria that must be followed in preparing such a plan, and an explanation of how said plan can be found consistent with the voter-approved Proposition A, which limited development in the FUA to the densities permitted under the zoning in place in August, 1984. Other proposed amendments address financing of school facilities in the Del Mar Mesa Specific Plan area (Subarea V) and incorporate the affordable housing policies of that plan. As amended in the proposed manner, the Commission finds that the Framework Plan remains fully consistent with Chapter 3 of the Coastal Act.

**PART V. FINDINGS FOR DENIAL OF CERTIFICATION OF THE DEL MAR MESA SPECIFIC PLAN LAND USE PLAN AMENDMENT, AS SUBMITTED**

**A. AMENDMENT DESCRIPTION**

The City has submitted the Del Mar Mesa Specific Plan as its land use plan component for Subarea V of the North City FUA. The FUA identifies the City's northern urban reserve, and is intended to hold development at minimal levels (agricultural and open space uses primarily) until the planned urbanizing areas of the City were built out. The previously certified North City FUA Framework Plan was a conceptual outline of how development patterns in the FUA were expected to occur in the future. The Framework Plan required that a subarea plan be prepared for each of the five delineated subareas as the next step in the land use planning process. The subarea plans were expected to form the LCP Land Use Plan document for the FUA, and were required to be prepared prior to the anticipated "phase shift" from future urbanizing to planned urbanizing.

In 1985, the voters approved Proposition A, a growth management initiative, which provided that densities could not be increased over those existing in August, 1984 without a subsequent public vote. In 1995, the City withdrew an LCP amendment request to allow a phase shift to occur prior to the completion of subarea planning, after the measure was defeated at the polls. Since that time, the City has been developing a plan for Subarea V utilizing existing zoning/land use regulations, such that a phase shift, and corresponding voter approval, is not required. This subarea is perhaps the one most appropriate for this approach, since so much of the subarea is within the proposed Multiple Species Conservation Plan (MSCP) area, and is intended to be retained as open space for wildlife habitat. The MSCP is the program being developed by the City of San Diego in response to the Natural Communities Conservation Plan legislation passed by the State, requiring habitat preservation to be addressed in a comprehensive manner. It is intended to establish a permanent preserve (or series of preserves) protecting the highest quality habitat and needed wildlife linkages; concurrently, individual properties outside the preserve boundaries would be able to develop with fewer restrictions.

The entire subarea consists of 2,042 acres, with 355 acres located within the coastal zone. The coastal zone acreage is divided between a 182.5 acre area along the northern portion of

the planning area and a 172.5 acre area in the southern portion. All of the southern coastal zone acreage is designated as "Resource-based Open Space," with the exception of approximately 1,525 linear feet of right-of-way for the future construction of Carmel Mountain Road and a very small(.9 acre) area designated for "Estate Residential Development." In the northern coastal zone strip, 39.6 acres are designated for "Estate Residential Development, with the remainder designated for "Resource-based Open Space."

Planning for the Del Mar Mesa has been conducted in conjunction with planning for the MSCP as a whole, with significant portions of the planning area, both inside and outside the coastal zone, within the delineated boundaries of the conceptual MSCP preserve system. Thus, the plan is proposing to cluster nearly all development outside of the delineated preserve boundaries, primarily in the western portion of the planning area. Existing zoning in the Del Mar Mesa area is either A-1-1, which allows one dwelling unit per acre, or A-1-10, which allows one dwelling unit per ten acres by right, with an option to cluster development at up to one dwelling unit per four acres, under a discretionary approval from the City. This "clustering" option is regulated by the Planned Residential Development Ordinance and City Council policies; when this option is utilized, all future development rights on a property are forfeited.

In the subject land use plan, clustered development at the one dwelling unit per four acres is proposed, calculated over the entire planning area as a whole, with the exception of the A-1-1 areas, which will retain their existing density of one dwelling unit (du) per acre. Thus calculated, and including both A-1-1 and A-1-10 lands, the planning area can accommodate a maximum of 685 dwelling units. These are proposed to be clustered at a higher density than 1 du/4 acres on some sites, while concurrently retaining only the underlying 1 du/10 acres on sites in the designated open space areas, removing the option for future clustering on those properties. Thus, the Estate Residential areas zoned A-1-10 will be allocated 1 du/2.5 acres. This is necessary since the clustering includes sixty different property owners/properties, rather than a single site as is generally reviewed for clustered development. The properties will be developed by different persons at different times, but each development proposal that involves more than a single-family residence on a legal lot will require a Planned Residential Development Permit. For this reason, the City is concurrently proposing revisions to the affected ordinances, to make them consistent with the proposed Del Mar Mesa Specific Plan.

#### B. CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT

The Commission finds, pursuant to Section 30512.2b of the Coastal Act, that portions of the Land Use Plan as set forth in the preceding resolutions, are not in conformance with the policies and requirements of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act. Section 30001.5 of the Act is cited above in this report. The Commission therefore finds, for the specific reasons detailed below, that the land use plan does not conform with Chapter 3 of the

Coastal Act or the goals of the state for the coastal zone with regards to the Del Mar Mesa Specific Plan.

C. NONCONFORMITY OF THE DEL MAR MESA SPECIFIC PLAN WITH CHAPTER 3

Chapter 3 policies most applicable to the proposed land use plan are Sections 30233, 30240, 30251 and 30253. These policies address development in and adjacent to wetlands, in and adjacent to environmentally sensitive lands, in areas of high scenic value and in hazardous areas. They place various restrictions on developments so located, and provide for the protection and enhancement of existing resources.

Much of the specific plan area is identified for inclusion in the MSCP preserve system, as is reflected on various exhibits within the plan document. It is anticipated that minor adjustments to the MSCP boundaries will occur when individual development proposals come forward at the City. Of concern is the plan's lack of clarity as to when "minor" revisions to the proposed open space boundaries (the MSCP preserve boundaries) become significant enough to require an amendment to the Specific Plan and LCP. The plan does not include a method for making such a determination, yet any change to the plan document, including its exhibits, would, by definition, typically require an LCP amendment.

Another identified concern is the Specific Plan's policies addressing affordable housing. Although the plan itself only addresses inclusionary housing, it also incorporates by reference policies in the North City Future Urbanizing Area Framework Plan. The Framework Plan includes a policy that specific plans provide for a 25 percent density increase and an additional incentive in accordance with state law. The issue of how the City will implement state law regarding density bonuses was last addressed when the Commission reviewed the Torrey Pines Community Plan update several months ago. At that time, the City withdrew all language addressing this issue and proposed to bring the matter forward as part of a citywide density bonus program. This has not yet occurred and there remain unresolved issues over implementation of state law. With respect to Chapter 3 nonconformity, the concern with density in the area covered by the Del Mar Mesa Specific Plan is that additional density could result in adverse impacts to coastal resources, by allowing expansion of the development area into designated open space areas or precipitate off-site road expansions that could conflict with the resource protection provisions of Chapter 3. Such an expansion could lead to development inconsistent with Sections 30240, 30251 and 30253 of the Coastal Act, which address environmentally sensitive lands, visual resources and hazardous areas, such as steep slopes. Thus, the Commission cannot find the Del Mar Mesa Specific Plan, as submitted, consistent with the cited Chapter 3 policies of the Coastal Act.

Finally, the plan as proposed does not identify the Los Penasquitos Lagoon Enhancement Fund as an applicable fee associated with future coastal development permits in this community. This program was established in the mid-1980's and is applicable to all coastal zone properties within the Los Penasquitos Lagoon watershed. The City generally implements it at the time building permits are issued. However, without supporting language in each LCP Land Use Plan for properties within the Los Penasquitos Lagoon watershed, the building permit funding requirement could be modified or eliminated in the future.

**PART VI. FINDINGS FOR APPROVAL OF THE DEL MAR MESA SPECIFIC PLAN LAND USE PLAN, IF MODIFIED**

**A. SUMMARY FINDING/CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT**

The Commission finds the Del Mar Mesa Specific Plan is approvable, if revised to include the clarifications and provisions of the four suggested modifications. As proposed, the Specific Plan states that the coastal zone portions of Subarea V "are governed by the North City Local Coastal Program (LCP)." It also incorporates the North City Future Urbanizing Area Framework Plan, wherever that plan does not conflict with the proposed Specific Plan. Thus, wherever the Specific Plan is silent on an issue, the policies of those previously-certified documents remain effective. This is particularly important in the area of visual resources, since the Specific Plan, other than establishing a height limit and setbacks, does not really address this matter at all, but the North City LUP includes great detail with respect to development maintaining and enhancing public views, minimizing landform alteration and being subordinate to the natural landforms. In addition, the proposed Specific Plan provides that the Hillside Review Overlay provisions remain applicable for all properties, or portions of properties, so designated on the City's certified Hillside Review Overlay maps.

However, modifications are required to clarify a number of issues, including affordable housing in the Del Mar Mesa community, the appropriate procedures in the event of boundary adjustments, the City's future assumption of coastal development permit authority and requirements for developer contributions to the Los Penasquitos Lagoon Enhancement Fund. The proposed suggested modifications to the land use plan have been drafted to address these concerns. With these revisions, the Commission finds the proposed plan would be consistent with Chapter 3 policies to the extent necessary to achieve the basic State goals specified in Section 30001.5 of the Act, as previously cited.

**B. SPECIFIC FINDINGS FOR APPROVAL**

The proposed plan contains many worthy proposals, including the concept of developing almost entirely within a fairly small area of the plan, and leaving most of the eastern and

southern portions in open space. Except for a few existing homes along Shaw Ridge Road, in the northwestern part of the plan designated for future residential development, the community is comprised entirely of vacant land. Most of this land contains high quality native vegetation communities, and Subarea V is home to several threatened and endangered plant and animal species. Portions of the community provide valuable wildlife linkages to and between Los Penasquitos Canyon Preserve and Carmel Valley. The undeveloped state of the subarea, along with these existing habitat areas, are why a large percentage of the subarea is within the proposed boundaries of the MSCP preserve, which represents the City of San Diego's Natural Communities Conservation Planning program efforts. Although the Commission endorses this planning approach in a general way, there were a number of issues raised in the previous findings with respect to the coastal zone portions of the specific plan area.

All of the concerns raised in the previous findings are associated primarily with environmentally sensitive habitat areas, although visual resources and geological hazards are present in the planning area as well. With respect to visual resources, the planning area is well removed from the coastline, although some future development in the northern part of the community may be visible from State Route 56, now under construction. However, due to topographical features, future development is unlikely to be visually prominent from coastal access routes or public recreational areas to any significant degree. All of these issues (biology, geology and scenic resources) have been adequately addressed in the certified North City LCP Land Use Plan, and are generally implemented by the provisions of the Hillside Review Ordinance. As proposed, the Del Mar Mesa Specific Plan makes reference to the North City LCP, stating that it still "governs" development in Del Mar Mesa assuring compliance of future development with these design constraints.

Prior to the Commission's action in November, 1996, staff had identified an internal inconsistency between the Del Mar Mesa Specific Plan and the Planned Residential Ordinance (PRD) with respect to the calculation of density. This apparent inconsistency resulted from the master planning approach used by the City in developing this specific plan as opposed to the more site-specific approach used in processing PRD permits. However, the master plan approach will not result in any increase in coastal resource impacts within the Del Mar Mesa Specific Plan area for several reasons. First, the open space boundaries have been firmly established in the specific plan, and new subdivisions will not occur in those areas. Second, very little development is proposed within the coastal zone portions of the specific plan area, since most of the coastal zone property is designated as "Resource Based Open Space." Finally, the specific plan area as a whole is too far removed from the shoreline for any potential increased density to become a significant deterrent to coastal access. Therefore, the Commission finds that the internal inconsistency between the Del Mar Mesa Specific Plan and the PRD Ordinance relative to the calculation of density will not result in adverse impacts to coastal resources, and the plan can be found consistent with Chapter 3 of the Coastal Act in this respect.

The first suggested modification addresses affordable housing. The suggested modification provides that any density bonuses and incentives granted to development covered by the Specific Plan for purposes of achieving affordable housing goals cannot result in additional encroachments into Resource-based Open Space or circulation element road expansions that include additional adverse coastal resource impacts. This approach is significantly different than how the issue was addressed at the time the Commission was reviewing the Torrey Pines Community Plan update, when the City stated its intention to prepare a Citywide density bonus program, rather than applying policies community by community. The Commission finds the approach in the Del Mar Mesa Specific Plan acceptable for development in Del Mar Mesa for several reasons. First, there are no resources present within the coastal zone portions of the Del Mar Mesa Specific Plan area other than steep slopes (i.e., no wetlands, floodplains, etc.) Second, due to the community's distance from the ocean, being located well east of Interstate 5, there is no potential for adverse coastal access impacts. Also, the potential for off-site circulation element road improvements precipitated by increased densities within the coastal zone is minimal, since the amount of coastal zone acreage designated for development is so small (40 acres under the Estate Residential allocation of 1du/2.5 acres). Therefore, the Commission finds that no coastal resource conflicts would be presented here by these provisions, and finds the Specific Plan's affordable housing policies, with the inclusion of Suggested Modification #1, consistent with Chapter 3 of the Coastal Act. This approach is unique to the Del Mar Mesa Specific Plan and may not be appropriate to other coastal areas of the City of San Diego.

There are also two suggested modifications that seek to clarify procedural matters. Although the plan as proposed indicates that no plan amendment is necessary for minor adjustments to the MSCP boundaries, Suggested Modification #2 provides that, within the coastal zone, any adjustments to the MSCP boundaries that will necessitate a revision to the existing plan exhibits will require an LCP amendment first. It is possible that such an amendment may qualify as "de minimus" or "minor" depending on the merits of the proposed boundary change. Also, the specific plan maintains that coastal development permit authority will be assumed by the City once the Commission certifies the plan, and the City accepts any suggested modifications. The resolutions submitted with the subject LCP amendment request have not formally requested a transfer of permit authority, nor do they contain a commitment by the City to issue coastal development permits consistent with the certified plan. Suggested Modification #3 advises that a formal request must be made before this occurs. This could be done in conjunction with future Executive Director certification, if the City accepts all modifications certified by the Commission, and should be reflected in an appropriate resolution at that time.

The last modification, which addresses Los Penasquitos Lagoon Enhancement Fund contributions, establishes the policy basis for the existing Los Penasquitos Lagoon Enhancement Fund provisions of the certified North City LUP which applies to all properties in the Los Penasquitos Lagoon watershed to address the cumulative impacts of increased sedimentation and erosion due to upstream development. This is a

complimentary policy to the fully-certified North City LUP, which remains effective in the Del Mar Mesa community.

In summary, four modifications have been suggested herein. With the inclusion of the suggested modifications, the Commission finds the proposed Del Mar Mesa Specific Plan fully consistent with the identified Chapter 3 policies of the Act, and further finds the modified plan appropriately identifies future procedures for amendments and the transfer of permit authority. With the inclusion of these four suggested modifications, the Commission finds the Del Mar Mesa Specific Plan consistent with all applicable Chapter 3 policies of the Coastal Act.

PART VII. FINDINGS FOR APPROVAL, AS SUBMITTED, OF PORTIONS OF THE CITY OF SAN DIEGO LCP IMPLEMENTATION PLAN AMENDMENT #2- 96

A. AMENDMENT DESCRIPTION

The amendment request addresses various elements of the City of San Diego's Implementing Ordinances. Included are:

- Revisions to the Subdivision Ordinance pertaining to special permit procedures for grading in hillside review areas;
- Revisions to the Municipal Code Definitions pertaining to the definition of a legal lot;
- Revisions to the General Regulations Ordinance pertaining to non-conforming use regulations;
- Revisions to the A-1 Zones pertaining to development in the Del Mar Mesa Specific Plan area;
- Revisions to the Planned Residential Development Ordinance pertaining to development in the Del Mar Mesa Specific Plan area;
- Revisions to the Resource Protection Ordinance pertaining to development in the Del Mar Mesa Specific Plan area.

Rejection of the amendments to the Resource Protection Ordinance will be addressed in separate findings, since a different action is proposed for them.

## B. FINDINGS FOR CERTIFICATION

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP. Since there are several different ordinances affected by the subject LCP amendment, each ordinance will be addressed separately below, under applicable subheadings.

### 1. Municipal Code Definitions - Lots.

a) Purpose and Intent of the Ordinance. The purpose and intent of this ordinance is to provide clear definitions of words and phrases commonly used in the City's zoning code to assist in their interpretation and ensure uniformity in their application.

b) Adequacy of the Ordinance to Implement the Certified LUP Segments. As stated, this ordinance provides definitions for commonly used words and phrases in the City's zoning ordinance. The revisions to this ordinance relate to the definition of a lot. Currently, a lot is defined as a parcel of land which meets any of the following requirements: 1) designated with a number or letter on a recorded subdivision or parcel map, record of survey map approved by the City Council, or an approved division plat; 2) officially proclaimed as a suitable building site by a zone variance, certificate of compliance or other San Diego Municipal Code procedure; 3) held as a separate parcel prior to December 5, 1954 and having at least 15 feet of street frontage or 4) held as a separate parcel upon annexation to the City of San Diego.

The proposed revision pertains to that portion of the definition which states that a lot is considered legal if it was created by a separate conveyance prior to December 5, 1954. Currently, if a property owner can provide documentation that his/her lot was created prior to this date, then it is considered a legal lot. Otherwise, the property owner would need to process a certificate of compliance or other means to determine the legal status of the lot. The proposed amendment to this definition will change the date to March 4, 1972 and allow legal access to a dedicated street to suffice when there is no street frontage.

The reason for the proposed revision is to make this provision consistent with the County of San Diego's Ordinance and the Subdivision Map Act (Section 66412.6) as well as to make it easier for a property owner to determine the legal status of his/her property. Because City parcel records are incomplete prior to 1970, it is sometimes difficult for a homeowner applying for a building permit or trying to sell his/her home to determine the legal status of their lot (which is a requirement for either of these processes).

Although some additional lots may be made "legal" with the new date, the proposed revision does not affect the need for new land divisions subsequent to this date to be reviewed under a coastal development permit in that the new effective date is still prior to enactment of the Coastal Act. As such, all policies and ordinances of the City's LCP would

still be applicable to new land divisions. Therefore, the Commission finds the proposed revision to be consistent with and adequate to carry out the provisions of the City's various LUP segments.

## 2. General Regulations - Non-Conforming Uses.

a) Purpose and Intent of the Ordinance. The purpose and intent of this ordinance amendment is to revise the General Regulations Ordinance pertaining to non-conforming uses.

b) Adequacy of the Ordinance to Implement the Certified LUP Segments. At present, an existing use is considered to be legally non-conforming if, because of a subsequent base zone revision, rezone or some other change, that particular use is no longer a permitted use within that zone. Instead of requiring such uses to be brought into compliance with the newly revised changes, the use is permitted to remain indefinitely as a legal non-conforming use. However, if the use changes or is enlarged, it is then required to comply with new standards and is no longer considered a legal non-conforming use. In addition, the current code provides the ability for a non-conforming use that has been discontinued for less than a year to resume (the same use) as a non-conforming use.

The proposed revision would change the time period from one year to two years in which a discontinued non-conforming use could resume. The reasons cited for this change is that because of economic and other such factors, once a non-conforming use is discontinued, it is often difficult for property owners to secure another use within the currently provided one year time frame. The proposed amendment will not change how non-conforming uses are determined and will not allow any additional uses to become non-conforming, but will only extend the time period that a discontinued legal, non-conforming use could resume the same use and still retain its non-conforming status. This provision does not apply to illegal or unpermitted uses and conversion of a discontinued non-conforming use to another use would still require review and compliance with existing policies and ordinances of the LCP. The proposed revision will not adversely affect public access or any other coastal resources. Therefore, the Commission finds that the proposed revision conforms with and is adequate to carry out the various LUP segments.

## 3. Subdivision Ordinance - Special Permits.

a) Purpose and Intent of the Ordinance. The purpose and intent of this ordinance is to control and regulate the design and improvements of land divisions within the city and provide an expeditious processing of subdivisions to protect both the public and purchasers of land.

b) Major Provisions of the Ordinance. This ordinance has a several significant provisions, including:

- Definitions of various approval bodies and terms;
- Procedures and requirements for filing and processing subdivision maps;
- Requirements for lot design, dedication and easements, fees, soil and geologic reports requirements; and,
- Procedures for enforcement and judicial review.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The proposed change to this ordinance relates to special permits for grading improvements in advance of filing a final map. Currently, the City code permits the City Engineer to issue a special permit to complete grading improvements prior to filing a final map with the City. However, the current code does not permit such advanced permits to be issued by the City Engineer within hillside review areas. In these areas, such a permit can only be issued by the City Council.

The proposed change would allow issuance of the advanced permit by the City Engineer in hillside review areas as well. The impetus for the proposed change is because of concerns raised at the City that processing a special permit through the City Council is time consuming and costly and, as such, eliminates the reason for such a request in the first place, which is usually so that grading can occur prior to the rainy season. The need for City Council approval in hillside review area is really not necessary because any special permit issued by the City Engineer could only occur after all discretionary reviews have been completed and it has been documented that the proposed advanced work is in compliance with all discretionary actions. In addition, the permit for advanced work is only issued after approval of the final engineering documents which have been prepared in compliance with the approved coastal development permit and tentative map. Additionally, the final map must also be in the last stages of processing and applicants are required to post a bond which would be used to restore the site to its previous state if the final approval is not approved.

As such, any advanced grading would only occur consistent with all required discretionary actions, including a coastal development permit. The special permit will allow site grading to occur in advance of filing and recording the final map only and no impacts to any sensitive habitat areas or other coastal resources would result from the proposed change. Therefore, the Commission finds the amendment to this ordinance is consistent with and adequate to carry out the various certified LUP segments of the City's LCP.

4. A-1 Zones

a) Purpose and Intent of the Ordinance. The purpose and intent of this ordinance is to provide appropriate zoning for areas that are presently in agricultural or open space use or otherwise undeveloped.

b) Major Provisions of the Ordinance. This ordinance has several significant provisions, including:

- Descriptions of permitted uses;
- Descriptions of permitted densities;
- Property development regulations; and
- Off-street parking requirements.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The proposed changes to this ordinance relate to new language incorporating the specific provisions of the Del Mar Mesa Specific Plan. In particular, there are different densities and development criteria for this planning area than elsewhere in the City, since the Del Mar Mesa is being planned areawide as a clustered development. Inclusion of the new language makes the A-1 Zones consistent with and adequate to carry out the Del Mar Mesa Specific Plan, which is being certified with suggested modifications herein. Since the new language applies specifically to that planning area only, the ordinance also remains consistent with and adequate to carry out all other certified land use plans in the City of San Diego's LCP.

5. Planned Residential Development (PRD) Ordinance

a) Purpose and Intent of the Ordinance. The purpose and intent of this ordinance is to facilitate development of residentially-designated properties, and is utilized both in urbanized areas and those with very low density. It provides mechanisms for clustered multi-unit developments in sensitive areas, to minimize steep slope and habitat disturbance and maintain larger areas of open space.

b) Major Provisions of the Ordinance. This ordinance has several significant provisions, including:

- Definitions of terms specific to the ordinance;
- Permit application requirements, process and limitations;

- Descriptions and tables of development standards; and
- Subdivision/tentative map provisions.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The proposed changes to this ordinance are intended to facilitate the provisions of the Del Mar Mesa Specific Plan. Primarily, the new language specifies that the Del Mar Mesa area is exempt from certain development standards, including density limitations and open space and landscaping requirements. The Del Mar Mesa Specific Plan already includes criteria to address those issues. Of greatest concern would be the density limit modification, which will allow 1 du/2.5 acres in clustered development, rather than the 1 du/4 acres maximum currently allowed in the PRD Ordinance. However, this modification is necessary to accommodate the planning concept for the Del Mar Mesa, wherein the City has planned the entire community as a single clustered development, although sixty different property owners, some with multiple legal parcels, are included in the community. In order to shift the appropriate level of clustering to those parcels considered most developable, with the understanding that individual projects will be submitted on different timeframes, a higher density must be given to those parcels. At the same time, lands in the areas to remain as open space will not have a clustering option, and can only develop at a maximum of 1 du/10 acres.

The proposed PRD revisions are applicable only within the Del Mar Mesa Specific Plan area, and cannot be applied on a City-wide basis as proposed. Moreover, the existing PRD provisions, which are not being modified, describe how densities can be calculated and require that open space used to calculate density must be dedicated as open space in perpetuity. All properties within the Del Mar Mesa will be developed through the PRD process. Thus the PRD Ordinance, as modified herein, will be consistent with and adequate to carry out the Del Mar Mesa Specific Plan, which is being certified with suggested modifications. Since the new language applies specifically to that planning area only, the ordinance also remains consistent with and adequate to carry out all other certified land use plans in the City of San Diego's LCP.

#### PART VIII. FINDINGS FOR REJECTION OF THE AMENDMENTS TO THE RESOURCE PROTECTION ORDINANCE, AS SUBMITTED

As mentioned above, the Resource Protection Ordinance is being discussed separately because a different action is proposed for them. This ordinance is recommended to be rejected based on the following findings.

##### Resource Protection Ordinance.

a) Purpose and Intent of the Ordinance. The purpose and intent of this ordinance is to protect, preserve and if necessary, restore environmentally sensitive lands that include

wetlands and their buffers, floodplains, hillsides, biologically sensitive lands and significant prehistoric and historic resources.

b) Major Provisions of the Ordinance. This ordinance includes a number of provisions, including:

- Guidelines on general provisions, exclusions and definitions;
- Specification of permitted uses and development regulations and permitting requirements; and,
- Violation and enforcement procedures.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The Resource Protection Ordinance was never adopted by the Commission as part of the City's LCP Implementing Ordinances. The proposed revisions to the RPO Ordinance are specific to the Del Mar Mesa Specific Plan, which has also been submitted for Commission certification as part of this overall LCP amendment request. It represents the LCP land use plan for Subarea V of the North City Future Urbanizing Area. The proposed amendments would replace some of the RPO provisions with the provisions of the Supplemental Regulations for Resource Management contained in the specific plan. In addition, the amendments provide a new exemption for any development in the Del Mar Mesa Specific Plan which meets a set list of criteria; this basically says if the development stays within the areas designated for development in the plan, observes all required setbacks and does not involve historic structures, no RPO permit is required. Finally, the proposed revisions would remove the single-family exemption for parcels located wholly or partially within the conceptual MSCP boundaries, within the Del Mar Mesa community.

Because the RPO Ordinance is not part of the City's certified LCP, these amendment requests are improperly before the Commission and must be rejected. The policies and goals of the North City LCP Land Use Plan and the provisions of the RPO Ordinance are not fully compatible, although they address many of the same issues. In the LCP Implementation Plan, the City has addressed environmentally sensitive lands, steep slopes and floodplain concerns through the HR, SCR and floodplain ordinances, not the RPO Ordinance. These certified zones have been reviewed and determined suitable to carry out the North City Land Use Plan. While some of the provisions of these zones are identical to those in the RPO, others are, at best, incompatible and, at worst, in direct conflict. Primarily, the RPO allows a number of exemptions that are not allowed in the other zones, which could result in significant cumulative adverse impacts on coastal resources. The RPO Ordinance itself identifies a coastal development permit as an alternative form of compliance, inferring that it was never the City's intent to apply the RPO in the coastal zone.

In summary, the City has proposed several revisions to the RPO Ordinance. Whether or not the individual proposed revisions are consistent with, or adequate to carry out, the goals and policies of the City's certified LCP land use plans is immaterial at this point. The amendment requests must ultimately be rejected because they propose to modify an ordinance which is not part of the certified LCP and only presented portions of said ordinance in this instance as an amendment.

#### PART IX. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission and the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP. Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions.

The subject amendment request includes three land use plan amendments pertaining to communities in the North City LCP segment. The proposed modifications to the Carmel Valley Neighborhood 10 Precise Plan primarily address non-coastal zone areas of the community. The two revisions that are applicable within the coastal zone have been found acceptable as submitted, and did not raise any issues under CEQA. The City has also proposed a new land use plan for Subarea V of the North City Future Urbanizing Area. The Del Mar Mesa Specific Plan is submitted as the land use plan for that subarea, and, in conjunction with that submittal, the City has proposed modifications to the North City Future Urbanizing Area Framework Plan, a conceptual planning document the Commission approved in 1993. The Framework Plan amendments did not raise any concerns, but a number of issues were identified in the Del Mar Mesa Specific Plan itself. Primary concerns addressed the plan's treatment of biological resources and errors or misunderstandings of some procedural matters. With the inclusion of suggested modifications, these concerns have been resolved. As modified, the Del Mar Mesa Specific Plan is consistent with the provisions of CEQA.

Relative to the Implementation Plan, several changes are proposed. The changes pertaining to special grading permits, non-conforming uses, the definition of legal lots, and modifications to the A-1 Zones and Planned Residential Development Ordinance are acceptable as submitted. However, the proposed changes to the Resource Protection Ordinance are unacceptable as this ordinance has never been adopted by the Commission as part of the City's LCP Implementation Plan and is therefore, not applicable in the Coastal

Zone. As such, to now propose changes to only portions of this ordinance, without having the entire ordinance before the Commission is unacceptable.

Given the proposed mitigation measures, the Commission finds the proposed local coastal program amendment, as modified, will not result in significant environmental impacts under the meaning of the California Environmental Quality Act. Furthermore, future individual projects would require coastal development permits from the City of San Diego. Throughout the City's Coastal Zone, the specific impacts associated with individual development projects would be assessed through the environmental review process; and, the individual project's compliance with CEQA would be assured. Therefore, the Commission finds that there are no feasible alternatives under the meaning of CEQA which would reduce the potential for such impacts which have not been explored and the LCP amendment, as modified, can be supported.

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