

CALIFORNIA COASTAL COMMISSION

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Date: February 13, 2002

TO: COMMISSIONERS AND INTERESTED PERSONS

FROM: DEBORAH LEE, SOUTH COAST DEPUTY DIRECTOR
SHERILYN SARB, DISTRICT MANAGER, SAN DIEGO AREA OFFICE
KERI AKERS, COASTAL PROGRAM ANALYST, SAN DIEGO AREA OFFICE

SUBJECT: STAFF RECOMMENDATION ON CITY OF DEL MAR MAJOR AMENDMENT
No. 1-2000 (Incorporate MSCP Subarea Plan into LUP)

SYNOPSISSUMMARY OF AMENDMENT REQUEST

As a participant in the City of San Diego Multiple Species Conservation Plan (MSCP), the City of Del Mar has prepared a subarea plan for the areas of the Multi-Habitat Planning Area (MHPA) within its incorporated boundaries. The City proposes to incorporate their subarea plan into the certified Land Use Plan (LUP) as an appendix to that plan. This item was previously included on the February 2002 Commission agenda, but at the City's request this item was postponed to the March 2002 Commission meeting.

SUMMARY OF STAFF RECOMMENDATION

The City of Del Mar has prepared an MSCP subarea plan which, with the proposed modifications, is intended to meet the requirements of both the Coastal Act and the Natural Communities Conservation Planning (NCCP) Act. The most significant undeveloped areas containing environmentally sensitive habitat (ESHA) within the City have been incorporated into the Multi-Habitat Planning Area (MHPA) as identified in the Subarea Plan, and will be protected as part of a comprehensive open space preserve system. These sensitive resource areas are also protected through the resource protection policies contained in the certified LCP Land Use Plan and in the Lagoon Overlay Zone, Bluff, Slope and Canyon Overlay Zone, Coastal Bluff Overlay Zone, and Floodplain Overlay Zone contained in the certified LCP Implementation Plan. In this particular case, all MHPA properties are also in public ownership and designated as public park or floodway in the certified LCP. Thus, there are no conflicts between potential development permitted through the MSCP subarea planning process, the certified LCP, and the Coastal Act.

Further, the MSCP Subarea Plan references the implementing ordinances of the LCP as applicable to any development proposed within these MHPA lands. Such ordinances would also be applicable to any development proposed outside the designated MHPA

Further, the MSCP Subarea Plan references the implementing ordinances of the LCP as applicable to any development proposed within these MHPA lands. Such ordinances would also be applicable to any development proposed outside the designated MHPA pursuant to the certified LCP. No Incidental Take Permit is being authorized for the City in connection with the approved MSCP subarea plan. Although take authorization could be requested from USFWS based on the approved Subarea Plan, the City has not applied for an ITP or entered into an Implementing Agreement with USFWS, and does not foresee a need to do so. Because the Subarea Plan has already been approved, and no ITP application is pending, the Commission's review focus is currently limited to the proposed incorporation of the Subarea Plan into the City's LCP. Therefore, with the exception of some minor modifications necessary to further clarify the relationship between the two planning efforts and the Commission's review authority, the submitted MSCP Subarea Plan meets the requirements of the Coastal Act, and, upon approval, will become part of the certified LCP for the City of Del Mar.

Staff is recommending denial of the subarea plan as submitted, and approval with suggested modifications to the subarea plan, adding the Coastal Commission to the list of agencies to review, and act upon, any future amendments to the subarea plan. Because all the areas designated as MHPA preserve lands within the City of Del Mar are already in public open space, no other modifications to the subarea plan are required to make it consistent with Chapter 3 of the Coastal Act. However, staff additionally recommends suggested modifications for the currently certified LUP which would insert current water quality standards and would cross-reference the MSCP where appropriate. The appropriate resolutions and motions begin on page 6. The suggested modifications begin on page 7. The findings for denial of the Land Use Plan Amendment as submitted begin on page 12. The findings for approval of the plan, if modified, begin on page 15.

BACKGROUND

In 1991, the State of California Resources Agency established the Natural Community Conservation Planning program (NCCP) to address the decline of the coastal sage scrub community and the California gnatcatcher. The objectives of the NCCP program include identification and protection of habitat in sufficient amounts and distributions to enable long-term conservation of the coastal sage community as well as other sensitive habitat types. These objectives will be achieved through the implementation of permanent conservation strategies, including the development of an interlinked preserve system. It was intended that plans created under the NCCP process will also comply with habitat management plan (HMP) requirements for US Fish & Wildlife Service (USFWS) incidental take permits under Section 10(a)(1)(B) of the Endangered Species Act, and with the USFWS Section 4(d) Special Rule for the gnatcatcher [50 C.F.R. 17.41(b)].

The San Diego Multiple Species Conservation Plan (MSCP) is a regional plan which addresses NCCP and HMP requirements within a study area of approximately 900 square miles (582,243 acres) in southwestern San Diego County. This area includes the City of San Diego, portions of the unincorporated County of San Diego, ten additional city jurisdictions – including the City of Del Mar -- and several independent special districts. The participating jurisdictions and special districts cooperatively designed a Multi-

Habitat Planning Area (MHPA), in partnership with the wildlife agencies, property owners, and representatives of the development interests and environmental groups. The MHPA is the area within which a permanent MSCP preserve will be assembled and managed for its biological resources. The participants will implement their portions of the MSCP through subarea plans, which describe specific implementing mechanisms. Once approved, the MSCP and subarea plans will replace interim restrictions on impacts to coastal sage scrub, as a result of the federal listing of the California gnatcatcher as threatened, and will allow the incidental take of other Covered Species as specified in the plan.

The Del Mar Subarea Plan is one of ten subarea plans, which were included with the MSCP submittal to the wildlife agencies in 1998 and were subsequently approved. Since Del Mar is a very small city which is nearly built out, the plan focused on implementation in several small local areas with significant resources. The primary consideration is the northern area of the city, which includes a portion of the San Dieguito Lagoon. Potential take authorization was intended to focus primarily on limited exclusions which could be requested for recreational access and public facilities in a few areas; however, this process is not currently at issue. Although take authorization could be requested from USFWS based upon the approved Subarea Plan, the City has not applied for an ITP or entered into an Implementing Agreement with USFWS, and does not foresee a need to do so. If the City were to apply for an ITP in future, the Commission would have the ability to review and comment on the permit application through the federal consistency process. It should be noted that the approval of the Del Mar Subarea Plan does not supersede or invalidate any portion of the certified LCP, whether or not the Subarea Plan is incorporated into the LUP. Any future activities associated with the Subarea Plan or an ITP must be consistent with the LUP and the certified Implementation Plan, or otherwise approved by the Commission. Additionally, staff's proposed modification to the last sentence of the Subarea Plan would require the Commission's concurrence, as well as the concurrence of the USFWS and CDFG, if any amendment to the Subarea Plan were proposed (see page 6). Because the Subarea Plan has already been approved, and no ITP application is pending, the Commission's review focus is currently limited to the proposed incorporation of the Subarea Plan into the City's LCP.

The Subarea Plan addresses the subarea description, land use designations, proposed design standards and resource protection measures, and preserve implementation and management. Maps show the areas included within the Subarea Plan, and the covered species habitats that have been identified within these areas. No inconsistencies between the approved Subarea Plan and the Del Mar LCP have been identified; however, the final sentence of the Subarea Plan should be amended to state that any amendments would require concurrence from the Commission as well as the wildlife agencies. Also, the LUP should contain a cross-reference to the Subarea Plan, similar to what the Subarea Plan already contains, and current water quality standards should also be added to the LUP at this time.

The City of Del Mar 1-2000 LCP Amendment and staff report were previously included on the agenda of the February 2002 Commission meeting held in San Diego. At the

request of the City, the Commission agreed to postpone this item to the March 2002 meeting. As of March 2002, the review of this item has been extended one year beyond the initial 90-day review period. The proposed LCP amendment must either be voted upon at the March 2002 Commission meeting, or else withdrawn by the City prior to the Commission's vote.

ADDITIONAL INFORMATION

Further information on the City of Del Mar LCP amendment No. 1-2000 may be obtained from Keri Akers, Coastal Planner, at (619) 767-2370.

PART I. OVERVIEW

A. LCP HISTORY

In April 1978, the City prepared a report entitled "City of Del Mar Local Coastal Program Issue Identification and Work Program" which identified coastal conservation and development issues specific to Del Mar. After an extended delay, the City resumed its LCP planning effort and, in May 1991 submitted its LCP (LUP) for Commission action. The Commission denied the LUP as submitted, but approved it with suggested modifications in September, 1991. When the City did not accept the suggested modifications within six months, the Commission's certification expired. The City then resubmitted the same documents and the Commission again approved the LUP with suggested modifications in June, 1992. This time the City Council did adopt the modifications within the prescribed time and the Commission effectively certified the LUP in March, 1993. This current request to amend the certified LUP to incorporate the city's MSCP Subarea Plan is the first amendment requested by the City since certification in 1993.

City staff subsequently prepared an implementation plan and informally submitted a draft to Commission staff in 1996 for comment and direction. Many of staff's comments were included in the final implementation plan, which was submitted for Commission action in May, 1999. In November, 1999, the Commission reviewed the City's implementation plan and approved it with suggested modifications. Again the City did not act within six months to accept the suggested modifications and the Commission certification expired. The City resubmitted its implementation plan, which was nearly identical to the plan approved in 1999, except that the current plan incorporated most of the previous suggested modifications. The Implementation Plan was approved with suggested modifications on March 13, 2001. On September 11, 2001, the Commission concurred with the Executive Director's determination to effectively certify the City of Del Mar Local Coastal Program.

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.

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

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

- I. RESOLUTION I (Resolution to deny certification of the Del Mar LCP Land Use Plan Amendment, as submitted)

MOTION I

I move that the Commission certify the Del Mar LCP Land Use Plan, as submitted.

Staff Recommendation

Staff recommends a **NO** vote and adoption of the following resolution and findings. An affirmative vote by a majority of the appointed Commissioners is needed to pass the motion.

Resolution I

The Commission hereby denies certification of the amendment request to the Del Mar LCP Land Use 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)(A) 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.

- II. RESOLUTION II (Resolution to approve certification of the Del Mar LCP Land Use Plan Amendment, if modified)

MOTION II

I move that the Commission certify the Del Mar LCP Land Use Plan, if it is modified in conformance with the suggestions set forth in this staff report.

Staff Recommendation

Staff recommends a **YES** vote and adoption of the following resolution and findings. An affirmative vote by a majority of the appointed Commissioners is needed to pass the motion.

Resolution II

The Commission hereby certifies the amendment request to the Del Mar LCP Land Use 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 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)(A) 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.

PART III. SUGGESTED MODIFICATIONS

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

1. On Page 7, modify the last sentence of the MSCP Subarea Plan as follows:

Amendments of the Subarea Plan would require concurrence by the USFWS, ~~and~~
CDFG and California Coastal Commission.

2. On Page 5 of the LUP, modify the opening paragraph of CHAPTER I – INTRODUCTION as follows:

This document comprises the “Land Use Plan” portion of the Local Coastal Program for the City of Del Mar. The Land Use Plan is a compilation of the goals, policies and recommendations identified in the Del Mar Community Plan, various policy reports, the San Dieguito Lagoon Enhancement Program, the City

of Del Mar Subarea Plan (MSCP), as well as other goals and policies adopted by the City Council to guide future development within Del Mar.

3. On Page 9, modify the final paragraph of Section A. Background within CHAPTER II – LAND USE DEVELOPMENT as follows:

It is also important to note that the preservation of the City's natural resources is of paramount concern to Del Mar. It is, therefore, the City's position that where there is a conflict between policies in this Land Use Plan, or between the Land Use Plan and the MSCP Subarea Plan incorporated herein, that the most restrictive policies, in terms of natural resource protection, shall apply.

4. On Page 45, modify GOAL III-C of Section D. Runoff and Erosion Control within CHAPTER III – HAZARD CONTROL by adding the following language at the end of this section:

The policy of the City is to ensure the future health, safety and general welfare of the citizens of the City and to improve and protect the water quality and beneficial uses of receiving waters by controlling stormwater runoff and pollution that may cause or contribute to adverse impacts on recreational access to beaches, or other coastal resources, such as sensitive habitat areas in, or associated with, coastal waters. All development, public and private, shall meet or exceed the stormwater standards of the State of California, and the most recent standards of the San Diego Regional Water Quality Control Board with regard to stormwater runoff, and any amendment to, or re-issuance thereof. Pursuant to this:

Water Quality

A. Watershed Planning

The City will support and participate in watershed based planning efforts with the County of San Diego and the San Diego Regional Water Quality Control Board (RWQCB). Watershed planning efforts shall be facilitated by helping to:

1. Pursue funding to support the development of watershed plans;
2. Identify priority watersheds where there are known water quality problems or where development pressures are greatest;
3. Assess land uses in the priority areas that degrade coastal water quality;
4. Ensure full public participation in the plan's development.

B. Development and Redevelopment

1. New development shall be sited and designed to protect water quality and minimize impacts to coastal waters by incorporating measures designed to ensure the following:

- a. Protecting areas that provide important water quality benefits, areas necessary to maintain riparian and aquatic biota and/or that are susceptible to erosion and sediment loss.
 - b. Limiting increases of impervious surfaces.
 - c. Limiting land disturbance activities such as clearing and grading, and cut-and-fill to reduce erosion and sediment loss.
 - d. Limiting disturbance of natural drainage features and vegetation.
2. New development or redevelopment shall not result in the degradation of the water quality of groundwater basins or coastal surface waters including the ocean, coastal streams, or wetlands. Urban runoff pollutants shall not be discharged or deposited such that they adversely impact groundwater, the ocean, coastal streams, or wetlands, to the maximum extent feasible.
 3. Development or redevelopment must be designed to minimize, to the maximum extent practicable, the introduction of pollutants that may result in significant impacts from site runoff from impervious areas. To meet the requirement to minimize pollutants, new development or redevelopment shall incorporate a Best Management Practice (BMP) or a combination of BMPs best suited to reduce pollutant loading to the Maximum Extent Practicable.
 4. Post-development peak stormwater runoff discharge rates shall not exceed the estimated pre-development rate for developments.
 5. New development and redevelopment shall be sited and designed to minimize impacts to water quality from increased runoff volumes and nonpoint source pollution. All new development and redevelopment shall meet the requirements of the San Diego RWQCB in its Order No. 2000-01, dated February 21, 2001, or subsequent versions of this plan.
 6. The BMPs utilized shall be designed to treat, infiltrate, or filter stormwater runoff from each storm, up to and including the 85th percentile, 24-hour storm event for volume-based BMPs and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor, for flow-based BMPs.
 7. Commercial development shall use BMPs to control the runoff of pollutants from structures, parking and loading areas.
 8. Restaurants shall incorporate BMPs designed to minimize runoff of oil and grease, solvents, phosphates, and suspended solids to the storm drain system.

9. Gasoline stations, car washes and automotive repair facilities shall incorporate BMPs designed to minimize runoff of oil and grease, solvents, car battery acid, coolant and gasoline to stormwater system.

10. The City will develop and implement a program to remove and prevent illicit connections and discharges.

11. New development or redevelopment shall include construction phase erosion control and polluted runoff control plans. The following BMPs should be included as part of the construction phase erosion control plan:

- a. Ensure vehicles on site are parked on areas free from mud; monitor site entrance for mud tracked off-site;
- b. Prevent blowing dust from exposed soils;
- c. Control the storage, application and disposal of pesticides, petroleum and other construction and chemical materials;
- d. Provide sanitary facilities for construction workers;
- e. Site washout areas more than fifty feet from a storm drain, open ditch or surface water and ensure that runoff flows from such activities do not enter receiving water bodies;
- f. Provide adequate disposal facilities for solid waste produced during construction and recycle where possible;
- g. Include monitoring requirements.

12. New development or redevelopment shall include post-development phase drainage and polluted runoff control plans. The following BMPs should be included as part of the post-development drainage and polluted runoff plan:

- a. Abate any erosion resulting from pre-existing grading or inadequate drainage.
- b. Control potential project runoff and sediment using appropriate control and conveyance devices; runoff shall be conveyed and discharged from the site in a non-erosive manner, using natural drainage and vegetation to the maximum extent practicable.
- c. Include elements designed to reduce peak runoff such as:
 - (1) Minimize impermeable surfaces.
 - (2) Incorporate on-site retention and infiltration measures.
 - (3) Direct rooftop runoff to permeable areas rather than driveways or impervious surfaces to reduce the amount of storm water leaving the site.

13. Storm drain stenciling and signage shall be provided for new stormdrain construction or reconstruction in order to discourage dumping into drains. Signs shall be provided at lagoon or river public access points to similarly discourage lagoon or river dumping.

14. Outdoor material storage areas shall be designed using BMPs to prevent stormwater contamination from stored materials.
15. Trash storage areas shall be designed using BMPs to prevent stormwater contamination by loose trash and debris.
16. Permits for new development or redevelopment shall be conditioned to require ongoing maintenance where maintenance is necessary for effective operation of required BMPs. Verification of maintenance shall include the permittee's signed statement accepting responsibility for all structural and treatment control BMP maintenance until such time as the property is transferred and another party takes responsibility.
17. The City, property owners, or homeowners associations, as applicable, shall be required to maintain any drainage device to insure it functions as designed and intended. All structural BMPs shall be inspected, cleaned, and repaired when necessary prior to September 30th of each year. Owners of these devices will be responsible for insuring that they continue to function properly and additional inspections should occur after storms as needed throughout the rainy season. Repairs, modifications, or installation of additional BMPs, as needed, should be carried out prior to the next rainy season.
18. Public streets and parking lots shall be swept frequently to remove debris and contaminant residue. For private streets and parking lots, the property owner shall be responsible for frequent sweeping to remove debris and contaminant residue.
19. Many BMPs recommended for reducing the impacts of non-point source pollution rely on or increase the infiltration of surface water into the soil. Use of these BMPs may not be appropriate for development on steep slopes, on sites with low permeability soil conditions, or areas where saturated soils can lead to geologic instability. New development or redevelopment in these areas should incorporate BMPs that do not rely on or increase infiltration.
20. New development or redevelopment that requires a grading/erosion control plan shall include landscaping and re-vegetation of graded or disturbed areas. An integrated vegetation management plan shall be required and implemented. Use of native or drought-tolerant non-invasive plants shall be required to minimize the need for fertilizer, pesticides, herbicides, and excessive irrigation. Where irrigation is necessary, efficient irrigation practices shall be required.
21. New development shall protect the absorption, purifying, and retentive functions of natural systems that exist on the site. Where feasible,

drainage plans shall be designed to complement and utilize existing drainage patterns and systems, conveying drainage from the developed area of the site in a non-erosive manner. Disturbed or degraded natural drainage systems shall be restored, where feasible, except where there are geologic or public safety concerns.

PART IV. FINDINGS FOR DENIAL OF CERTIFICATION OF THE CITY OF DEL MAR LCP LAND USE PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

As stated previously, the City of Del Mar is a participant in the City of San Diego's Multiple Species Conservation Plan (MSCP); as such, it has prepared a subarea plan to address those portions of the Multiple Habitat Planning Area (MHPA) located within Del Mar's borders. The plan was submitted to state and federal agencies along with the overall MSCP document, and has been approved by those agencies. Now the City proposes to make the Subarea Plan part of the certified LUP, by incorporating it as an appendix to that document.

The MHPA includes four different resource types/areas in Del Mar. These are identified on the MHPA map, Exhibit 4. These include the Carmel Valley Bluff, the Del Mar Canyon Preserve, the City's coastal bluffs and San Dieguito Lagoon/Crest Canyon. All of these areas identified in the MHPA are in public ownership, and are designated as either Public Parkland or Floodway in the certified LUP. The City has additional land in the Public Parkland designation, such as the municipal beaches and active neighborhood parks. Since these areas do not forward the purpose of the MHPA, they were not included in the MHPA mapping.

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 of 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 does not conform with Chapter 3 of the Coastal Act or the goals of the state for the coastal zone with regards to current water quality standards and the relationship between the certified LUP and the MSCP Subarea Plan.

C. NONCONFORMITY OF THE LUP WITH CHAPTER 3

The subject amendment request raises issues with respect to the following Coastal Act policies:

Section 30240

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

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

Section 30231.

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

Section 30251

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to

minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The City's adopted MSCP Subarea Plan acknowledges the undeveloped significant environmentally sensitive habitat areas (ESHA) remaining in the City of Del Mar. The City is a very small and nearly built out community with little open land remaining. All areas included in the MHPA mapping are in public ownership and designated for limited land uses consistent with the idea of maintaining these areas permanently as undeveloped open space. The Floodway designation applied to one area does not allow any structures at all. The Public Parkland designation applied to the other areas would allow use for a number of different public purposes, one of them being ecological preserves, which applies to the specific lands in question.

The two concerns identified in adding the Subarea Plan as an appendix to the LUP are: 1) the Coastal Commission has not been identified as a required regulatory review agency for any future amendments to the Subarea Plan; and 2) the relationship between the existing certified LUP and the separate Subarea Plan is not entirely clear. For purposes of coastal development permit decision-making, the entire LCP, including the LUP, its appendices, the implementing ordinances, and associated maps to be adopted in the future, are considered as a whole before any permit is approved. Thus, should there be any questions that arise through the implementation process, it is critical for the City and general public to know what policies are controlling. Although the Subarea Plan as a whole addresses coastal resource issues appropriately under the Chapter 3 resource protection policies, for the lands within the MHPA, the omission of these few details could result in future actions on lands outside the MHPA that are not consistent with Chapter 3 of the Coastal Act. Since there are several privately-held vacant lands which could be developed within the City, and many more that could be redeveloped, it is very important that those landowners, City staff, and all other interested parties, understand that a property being outside the mapped MHPA does not in any way limit the City's ability to apply all the resource protections identified in other LUP policies.

In addition, it has become clear that additional measures are required within both existing development and as part of new development to reduce the amount of pollutants contained in runoff leaving a development site and entering the storm drain system. Additionally, the volume and velocity of such runoff must be controlled. These concerns were touched upon in a small section of the currently certified LUP addressing runoff and erosion control, and in a number of broader policies addressing resource protection in general. However, the standards identified in the LUP are inconsistent with standards recently adopted by the Regional Water Quality Control Board (RWQCB) and additional water quality parameters need to be added. Without current water quality standards and parameters, the LUP and MSCP Subarea Plan do not provide for sufficient ESHA protection, and the LUP must be rejected as submitted.

**PART V. FINDINGS FOR APPROVAL OF THE CITY OF DEL MAR LCP
LAND USE PLAN, IF MODIFIED**

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

The City of Del Mar has prepared an MSCP subarea plan which, with the proposed modifications, is intended to meet the requirements of both the Coastal Act and the Natural Communities Conservation Planning (NCCP) Act. The most significant undeveloped areas containing environmentally sensitive habitat (ESHA) within the City have been incorporated into the Multi-Habitat Planning Area (MHPA) as identified in the Subarea Plan, and will be protected as part of a comprehensive open space preserve system. These sensitive resource areas are also protected through the resource protection policies contained in the certified LCP Land Use Plan and in the Lagoon Overlay Zone, Bluff, Slope and Canyon Overlay Zone, Coastal Bluff Overlay Zone, and Floodplain Overlay Zone contained in the certified LCP Implementation Plan. In this particular case, all MHPA properties are also in public ownership and designated as public park or floodway in the certified LCP. Thus, there are no conflicts between potential development permitted through the MSCP subarea planning process, the certified LCP, and the Coastal Act.

Further, the MSCP Subarea Plan references the implementing ordinances of the LCP as applicable to any development proposed within these MHPA lands. Such ordinances would also be applicable to any development proposed outside the designated MHPA pursuant to the certified LCP. No Incidental Take Permit is being authorized for the City in connection with the approved MSCP subarea plan. Although take authorization could be requested from USFWS based on the approved Subarea Plan, the City has not applied for an ITP or entered into an Implementing Agreement with USFWS, and does not foresee a need to do so. Because the Subarea Plan has already been approved, and no ITP application is pending, the Commission's review focus is currently limited to the proposed incorporation of the Subarea Plan into the City's LCP. Therefore, with the exception of some minor modifications necessary to further clarify the relationship between the two planning efforts and the Commission's review authority, the submitted MSCP Subarea Plan meets the requirements of the Coastal Act, and, upon approval, will become part of the certified LCP for the City of Del Mar.

B. SPECIFIC FINDINGS FOR APPROVAL IF MODIFIED

As stated above, in incorporating the Subarea Plan into the LUP, it becomes a part of the certified document. Thus, any changes to the Subarea Plan will require an LCP amendment. However, the submitted plan does not identify that the Coastal Commission must review any future changes to the plan. Suggested Modification #1 corrects that oversight by adding the Coastal Commission to the list of resource agencies that must

review future amendments. This will assure that no changes are made to the Subarea Plan which are not consistent with Chapter 3 policies of the Coastal Act.

Suggested Modification #2 identifies the Subarea Plan as a part of the certified LUP. The language would be added in the introduction portion of the LUP, where the City has identified what documents comprise the LUP. Suggested Modification #3 identifies the Subarea Plan's relationship with the LCP as a whole. It indicates that, where there may be conflicts with any certified LUP policies, the policies most protective of resources are controlling. With these two modifications, the LUP properly references the Subarea Plan as being incorporated into the certified document.

The Commission's water quality standards have been evolving steadily over the past few years. During that time, the Commission's staff has been working closely with staff of the San Diego RWQCB to assure that any standards applied to new development by the Commission are both consistent with the Coastal Act and compatible with the requirements of the Clean Water Act, since both laws are applicable to development within the coastal zone. The San Diego RWQCB has adopted new standards to be applied to all development within its area of jurisdiction. The Commission finds that application of similar standards within the coastal zone would also fulfill its mandate under Sections 30230 and 30231 of the Coastal Act. The last modification, Suggested Modification #4, adds policy language consistent with the San Diego RWQCB standards to that portion of the certified LUP addressing runoff and erosion control. The City's certified LCP Implementation Plan already contains standards which identify the 85th percentile rainstorm as the design standard for any new erosion control devices, public or private, and also provides flexibility on how those standards are calculated based on the exact design of the devices. As modified, the LUP will contain policies which are consistent with the current San Diego RWQCB standards, and which will adequately protect ESHA and downstream sensitive resources consistent with Chapter 3 policies of the Coastal Act.

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

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. 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. With the inclusion of the four suggested, relatively minor modifications, the Commission can make such a finding. The new version of the LUP certified herein by the Commission appropriately addresses the issues of water quality

and procedure raised in the amendment request. Therefore, with the modifications suggested herein, the Commission finds the subject LCP amendment, intended primarily to incorporate the City's MSCP Subarea Plan, does conform with CEQA provisions.



Tue 9b

CITY OF DEL MAR

SUBAREA PLAN

Introduction and Statement of Consistency

The Del Mar Subarea Habitat Conservation Plan/Natural Community Conservation Plan (Subarea Plan), and an accompanying Implementing Agreement, will implement the Multiple Species Conservation Program (MSCP) Plan within the City of Del Mar. Del Mar submits this Subarea Plan for inclusion as a chapter of the MSCP Plan, and the environmental analysis of the MSCP Plan will address this Subarea Plan.

Since the five-county region encompassing the southern California area was deemed too large and complex for a single Habitat Conservation Plan (HCP) to cover, the Natural Community Conservation Plan (NCCP) Process and Conservation Guidelines approved by the California Department of Fish and Game in November of 1993, established a process for sub-regional planning within a portion of the NCCP region. (This process was also incorporated into the U. S. Fish and Wildlife Service's 4(d) Special Rule for the California gnatcatcher in December 1993.) The NCCP guidelines recognize the need for finer-scaled, "subarea" planning within sub-regions for successful preserve implementation. Implementation of the regional NCCP preserve system depends upon incremental implementation of sub-regional plans, which in turn depends upon incremental implementation of subarea plans.

The MSCP Plan goals, objectives, and guidelines were consulted and are hereby adopted by reference in this Subarea Plan. The policies of this Subarea Plan are compatible and uphold the intent of the Biological Preserve Design Criteria contained in MSCP Plan. This Subarea Plan, when taken as a whole, is substantially consistent with the MSCP Plan.

Subarea Description

The City of Del Mar is approximately two miles long and three quarters of a mile wide at its widest point. It contains roughly 2,000 separate, assessed parcels of property and has a population level that has remained fairly constant at 5,000 persons. Originally, Del Mar was developed as a community of predominantly single-family homes. Over the years, a considerable number of multiple family housing units have been built within the City. The City is largely "built out", with a relatively small amount of vacant land remaining. Much of the current development activity within the City involves redevelopment projects and new projects on the City's few vacant properties. These vacant areas often involve difficult and physically constrained lands.

The City of Del Mar is unique in that it is surrounded on almost all sides by significant natural landforms and resources. The most notable is the Pacific Ocean to the west. San

Dieguito Lagoon and its associated floodplain and upland hillside area wrap around much of the City's northern and eastern boundaries; this includes the area of Crest Canyon, which serves as a major drainage course within the watershed of San Dieguito Lagoon. To the south, the wetlands of Penasquitos Lagoon separate Del Mar from developed areas within the City of San Diego.

The 22nd District Agricultural Association and the North San Diego County Metropolitan Transit Board are not included within this Subarea Plan.

Covered Species List

Approval of the Del Mar Subarea Plan will provide "take" authorization coverage for the following species: aphanisma, Del Mar manzanita, wart-stemmed ceanothus, Del Mar Mesa sand aster, short-leaved dudleya, San Diego barrel cactus, Nuttall's lotus, Torrey pine, salt marsh skipper butterfly, arroyo southwestern toad, southwestern pond turtle, California red-legged frog, orange-throated whiptail, San Diego horned lizard, Cooper's hawk, tricolored blackbird, California rufous-crowned sparrow, coastal cactus wren, western snowy plover, northern harrier, reddish egret, southwestern willow flycatcher, American peregrine falcon, long-billed curlew, Belding's Savannah sparrow, large-billed Savannah sparrow, California brown pelican, white-faced ibis, coastal California gnatcatcher, light-footed clapper rail, burrowing owl, California least tern, elegant tern, least Bell's vireo. Map 1 delineates the habitats that have been identified for inclusion in the Del Mar Subarea Plan. Because this Subarea Plan is a component of the MSCP, approval of other Subarea Plans will ultimately add to the covered species list for the subregion, including the Del Mar Subarea Plan.

Land Use Considerations

Map 2 presents Del Mar's Subarea Plan land use designations. The Subarea Plan within the City of Del Mar consist of the following four areas:

Area 1- Carmel Valley Bluff: Approximately 8.23 acres on the South side of Carmel Valley Road, extending East of Camino Del Mar to San Diego City limits to the South and East. This area combines sandstone bluffs to the north, and canyon to the south. This area supports native vegetation and wildlife habitat. This area is designated open space and includes hiking trails which are for recreational use. The Carmel Valley Bluff is intended for passive use.

Area 2 - Del Mar Canyon Preserve: This 3.8 acres Canyon Preserve is presently designated open space on the West side of Camino Del Mar, bordered by Canyon on the North, coastal bluffs on the West, and beach access to the South. The Canyon preserve provides a combination of high bluffs with extensive vistas, deep drainage cuts through the sandstone cliffs, and rugged canyons with native vegetation, including the Torrey Pines. This area is intended for passive use.

Area 3 - Coastal Bluffs: Approximately 11.78 acres bordered by the ocean to the West, extending to the City's North and South city limits with high bluffs to the east. This area contains a combination of bluffs and unique geological formations, which provides beach access and exceptional vistas in addition to its recreational use. Area 3 is intended for passive uses and the continued use of existing pedestrian trails with the possibility of expanding Coastal access to and along the bluffs/coast. Storm drain facilities exist within area 3, these existing drainage facilities shall be maintained and upgraded when deemed necessary by the City Engineer.

The sandy beach area adjacent to the coastal bluffs provides habitat and serves as a feeding ground to several species of birds. This area also provides recreational opportunities in terms of useable public beach land. Recognizing the dual needs of this area, to the maximum extent possible, the City will balance recreation needs and resource management needs within the sandy beach area.

The railroad right-of-way is also located along the bluffs between Seagrove Park and Carmel Valley Road. The operation and maintenance of the railroad right-of-way will continue under the ownership of the North San Diego County Metropolitan Transit Board. The railroad right-of-way is not included within the multi-habitat planning area.

Area 4 - San Dieguito Lagoon and Crest Canyon: The lagoon, formed by the culmination of the San Dieguito River, is generally bordered on the north by the Del Mar Racetrack, Fairgrounds, and parking lot; on the south by San Dieguito Drive; and on the east by the City of San Diego. This area contains the lagoon system of channels and marshes, surrounding lowlands and bluffs, and Crest Canyon. Pursuant to the Del Mar Community Plan, the San Dieguito Lagoon will be restored, enhanced and expanded. The objectives of the restoration plan include 1) to protect and restore the wetlands and biologic resources; 2) to ensure well-functioning river and lagoon ecosystems; 3) to maintain the rural, open space character of the valley, including its natural floodplain and uplands, as well as its viewshed hills and bluffs; and 4) to establish wildlife corridors and trail systems along the entire length of the valley, compatible with the wetland resources. The 22nd District Agricultural Association lies within the corporate limits of the City of Del Mar. Almost all of the lands are within either the floodway or 100-year floodplain of the San Dieguito River/Lagoon. The 22nd District Agricultural Association is an independent agency of the State of California and, therefore, not included within the City of Del Mar's multi-habitat planning area.

Project Design Standards

Design standards (i.e., lighting, fencing, setbacks) shall be in accordance with Chapter 4 of the MSCP Plan. Where the MHPA is adjacent to development, this interface area will be designed in such a way so as to limit, to the extent possible, impacts from adjacent development on the MHPA. A project-by-project analysis will be made through the existing

environmental review process and design review process for project review to determine the most appropriate manner to accomplish this.

Mitigation and design measures to ensure limitation of development impacts will include, but shall not be limited to, the following:

- * Applying the appropriate development setbacks from the MHPA to the extent possible, to reduce noise and light impacts, acknowledging the existing direct interface between urban development and the MHPA in the City of Del Mar;
- * Landscaping in buffer areas, and re-introducing native species, where deemed appropriate, and
- * Installing information signs near public access areas indicating that the MHPA is a protected habitat preserve.
- * Establishing conservation easements when deemed appropriate, on a case by case project basis.
- * Control of urban run-off into sensitive habitat areas.

Preserve Management

The City of Del Mar has adopted measures through the Land Use Plan portion of the Local Coastal Program that provide protection to native vegetation and wildlife habitats within the City's jurisdiction. It is anticipated that preservation management of Area 4 will be accomplished through the combined efforts of the City of Del Mar and the San Dieguito River Valley Joint Powers Authority.

Protection of Resources

The City of Del Mar's certified Land Use Plan and appendices and the Environmental Management section of the City of Del Mar's Community Plan have thoroughly addressed preservation of Del Mar's environment in a manner consistent with the MSCP Plan.

Policy VI-1 - Preserve and protect sensitive slopes and associated bluff and canyon areas and their downstream resources through the application of the Bluff, Slope and Canyon Overlay Zone Regulations.

Policy VI-3 - Ensure the protection of the wetlands of the Los Penasquitos Lagoon and San Dieguito Lagoon and their sensitive upland habitat by requiring that all development activities taking place in lagoon and uplands areas, designated on the Lagoon Overlay Zone Mar, conform to the Wetland Preservation Regulations.

Specifically, the policies outlined in the Wetland Preservation Regulations include the following provisions:

* To protect wetland areas, all new construction projects which are located on property which includes or lies in proximity to wetland habitat, shall include the provision of a continuous wetland buffer. The buffer shall be 100-feet in width with permitted uses in the wetland buffer limited to those cited in Wetland Regulation #3 of the Wetland Preservation Regulations. The buffer shall be measured landward from the boundary of wetlands as delineated pursuant to the requirements of the Wetland Preservation Regulations.

* A wetland buffer of less than 100-feet in width shall be allowed only when, due to physical constraints such as the size and dimensions of the property, such buffer of a lesser width will protect the resources of the adjacent wetlands, based on site-specific factors. Such factors shall include, but not be limited to, the type and size of the development proposed; mitigation measures provided (such as planting of vegetation or construction of fencing); elevation differentials between the proposed development and wetland boundaries; or other similar factors which will serve to contribute to the purposes of a wetland buffer area. Proposals for mitigation measures for wetland buffers less than 100-feet in width shall be referred to representatives of the California Department of Fish and Game for a recommendation. In no event shall the wetland buffer be less than 50 feet in width.

The provision of a wetland buffer of less than 100-feet in width which, pursuant to this policy, has been authorized for one aspect of a development proposal, shall not be construed as an authorization to provide a buffer of less than 100-feet in width for other aspects of such proposal which have not been specifically enumerated in the required findings set forth herein.

* Mitigation for wetlands impacts will require "no net loss" through acquisition and restoration/enhancement of wetland habitat at the minimum 2:1 ratio. This policy shall not apply to impacts associated with the San Dieguito Lagoon Enhancement Plan.

Brush and fire management practices in and adjacent to the MHPA shall comply with the City of Del Mar Landscape Development Guidelines. Specifically, where possible, the following fire management techniques for properties adjacent to native slopes and open space areas have been established to minimize loss due to fire:

Zone 1

- a. This zone consists of planting adjacent to structures.
- b. Planting can be comprised of ornamental, irrigated, and non-native species or native species that can withstand summer water.

- c. Planting in this zone shall be maintained in a moisture filled conditions (precluding overwatering) for increased fire retardance.

Zone 2

- a. This zone provides a buffer between ornamental plants and natives.
- b. Planting in this zone can be irrigated.
- c. Plants shall remain low growing (18" - 24").
- d. Plants shall be deep rooted to hold the soil.
- e. Native plants that can withstand supplemental water can be used in this zone.

Zone 3

- a. The zone provides a buffer between irrigated and non-irrigated plants.
- b. The plants in this area consist of fire retardant natives that are visually and culturally compatible with existing natives.
- c. Plants used in this area shall be deep rooting and provide good soil coverage.
- d. Plants shall have a height of 24" or less.
- e. Plants shall survive with no supplemental water after establishment.

Zone 4

- a. Zone 4 shall consist of thinned native vegetation.
- b. This zone shall not receive supplemental irrigation.
- c. Natives in this zone shall be thinned by 25 percent of the total mass.
- d. Plants shall maintain a natural appearance after thinning.

Where appropriate, Fire Management Zones 1 - 4 should not exceed 100 feet. Where appropriate, Fire/Brush Management Zones will be reduced through the use of building setbacks, construction materials and techniques and other appropriate alternative techniques.

MSCP Implementation Funding





As a participating agency in the MSCP Plan, the City of Del Mar is committed to cooperating with the regional effort to develop a finance and acquisition strategy that spreads implementation costs equitably among all beneficiaries for the funding of the acquisition and maintenance of habitat within the MSCP Multi-Habitat Area Preserve. The City of Del Mar acknowledges that the level of contribution for each jurisdiction has not been specified, and would be so specified at the time when the funding mechanisms are identified. The City also affirms that the level of each jurisdiction's contribution should be proportionate to the anticipated level of benefit.

Amendment Process

Subarea Preserve Plan amendments will be considered by the City of Del Mar should new scientific data on habitats and species within the City become available, or to add or delete species from the Covered Species List. Amendments to the subarea plan would be

processed in a manner consistent with the proposed MSCP Plan and the City's Implementation Agreement. Amendments of the Subarea Plan would require concurrence by the USFWS and CDFG.

**DEL MAR
SUB-AREA PLAN**

- AREA 1 
- AREA 2 
- AREA 3 
- AREA 4 



PLAN 2

RESOLUTION NO. 96-42

**RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF DEL MAR, CALIFORNIA,
TO SUBMIT THE CITY OF DEL MAR HCP/NCCP SUBAREA
PLAN FOR INCLUSION IN THE
MULTIPLE SPECIES CONSERVATION PROGRAM PLAN .**

WHEREAS, the Multiple Species Conservation Program (MSCP) is sponsored by the City of San Diego to meet requirements necessary to enable upgrading of the Metropolitan Sewage System and to address the potential associated impacts of urban growth, habitat loss, and species endangerment.

WHEREAS, the MSCP is a comprehensive habitat conservation based plan which addresses multiple species needs and the preservation of natural communities in a manner designed to provide flexibility to public agencies and private property owners in meeting their needs to mitigate the environmental impacts of their projects; and

WHEREAS, the MSCP Study Area includes the City of Del Mar and other general purpose agencies of governments within the County of San Diego; and

WHEREAS, the City Council of the City of Del Mar adopted a non-binding Resolution of Intention on July 19, 1993, to proceed with the eleven other general purpose agencies of governments in a coordinated regional effort to prepare a draft MSCP Plan; and

WHEREAS, the draft MSCP Plan has been submitted to the general purpose agencies within its Study Area for review and concurrence; and

WHEREAS, it is the obligation of each participating MSCP general purpose agency to develop and submit for incorporation into the MSCP Plan a Subarea Plan for the lands within the agency's corporate boundaries; and

WHEREAS, the Del Mar City Council is intent on having the attached City of Del Mar HCP/NCCP Subarea Plan as a chapter of the MSCP Plan, and to have the environmental analysis of the MSCP Plan to suffice for this Subarea Plan; and

WHEREAS, the City of Del Mar has adopted a General Plan and the Land Use Plan portion of the Local Coastal Program; and

WHEREAS, the Del Mar City Council has determined, in a public hearing, that the draft City of Del Mar Habitat Conservation Plan (HCP)/ Natural Community Conservation Plan (NCCP) Subarea Plan under review is consistent with the policies and goals of the Land Use Portion of the City's Local Coastal Program and Community Plan; and

WHEREAS, said public hearing was duly noticed as required by law and all persons desiring to be heard were heard at said hearing.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Del Mar that, as a participating party in the MSCP Plan, the City of Del Mar hereby submits the attached City of Del Mar HCP/NCCP Subarea Plan for incorporation as a chapter into the MSCP Plan.

PASSED AND ADOPTED by the City Council of the City of Del Mar, California, this 5th day of August, 1996, by the following vote to wit:



D. ELLIOT PARKS, Mayor

ATTEST:


MERCEDES MARTIN, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss
CITY OF DEL MAR)

I, Mercedes Martin, City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No 96-42 adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 5th day of August, 1996, by the following vote:

AYES: Councilmembers Druker, Earnest, Schooler, Mayor Parks

NOES: None

ABSENT: Councilmember Whitehead

ABSTAIN: None


MERCEDES MARTIN, City Clerk