

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



W16b

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Staff: M. Ahrens-SD
Staff Report: 1/25/12
Hearing Date: 2/7-9/12

STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of San Diego

DECISION: Approval with Conditions

APPEAL NO.: A-6-NOC-12-005

APPLICANT: Sorrento Pointe I & II L.P.

PROJECT DESCRIPTION: Construction of one two-story, 33,368 sq. ft. office building and one three story, 58,970 sq. ft. office building, surface and underground parking, access and drainage improvements and landscaping on an existing 14.35 acre hilltop property.

PROJECT LOCATION: 11965 and 12025 Sorrento Valley Road, Torrey Pines, San Diego (San Diego County)

APPELLANTS: Coastal Commissioners Esther Sanchez and Mark Stone

STAFF NOTES: This appeal was filed on January 13, 2012. As, pursuant to Section 30621 of the Act, the hearing must be set on the appeal 49 days from date of filing, the project must be scheduled on the February 2012 Commission Meeting. The deadline for completing the staff report for the February Commission meeting is January 25, 2012. The appeal was filed on January 13 and Commission staff received the City file on January 20th. As such, Staff has not had adequate time to fully review the City file and associated documents. The recommendation at this time is based on the extent of information staff has been able to review at this time.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that substantial issue exists with respect to the grounds on which the appeal has been filed, specifically regarding the protection of sensitive biological resources, drainage, avian collisions, and impacts to visual resources.

HEARING PROCEDURES

The Commission will not take public testimony during this phase of the appeal hearing unless at least three Commissioners request it. If the Commission finds that the appeal raises a substantial issue, it will schedule the de novo phase of the hearing for a future meeting during which it will take public testimony. Written comments may be submitted to the Commission during either phase of the hearing.

SUBSTANTIVE FILE DOCUMENTS: City of San Diego certified Local Coastal Program; Torrey Pines Community Plan; Final Mitigated Negative Declaration received 1/09/11; RECON Biological Resources Survey Report dated 6/30/11.

I. Appellants Contend That: The permit approved by the City is inconsistent with the certified local coastal program pertaining to protection of sensitive biological resources, provisions for adequate mitigation of impacts to biologically sensitive resources, requirements for upland and wetland habitat buffers, establishment of adequate brush management zones, drainage, avian collisions, and protection of visual resources. The proposed project and the City's CDP did not take into consideration possible project alternatives that could avoid or minimize impacts to sensitive on site habitats and provide adequate setbacks from wetland and upland habitats. Additionally, the City's CDP does not address the potential for additional impacts to sensitive biological resources from designated brush management zones. Furthermore, it is probable that the existing sensitive resources on site constitute an Environmentally Sensitive Habitat Area (ESHA), however, the City has not addressed or identified the potential for any ESHA impacts to occur on site as a result of the proposed development. As such, additional individual and cumulative impacts to sensitive coastal resources could occur as a result of the proposed development that have not been adequately addressed or mitigated for in the City's CDP. In failing to adequately analyze significant environmental impacts that will result from the project, the City has failed to comply with the certified LCP.

The Appellants also contend that the City's CDP for the proposed project is deficient in that it did not adequately address and provide mitigation for avian collisions, water quality, and impacts to the visual resources of the surrounding area that will result from the proposed project. The proposed development has not been designed and adequately conditioned to minimize and provide mitigation for all impacts to sensitive coastal resources and, as such, it cannot be found consistent with the applicable provisions of the certified LCP.

II. Local Government Action. The project was approved with conditions by the City Planning Commission on December 8, 2011. No appeals of the Planning Commission's decision were filed at the local level.

III. Appeal Procedures. After certification of a municipality's Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permit applications. One example is that the approval of projects within cities and counties may be appealed if the projects are located within appealable areas, as defined in section 30603 of the Coastal Act. The grounds for such an appeal are limited to the assertion that "development does not conform to the standards set forth in the certified local coastal program or the [Coastal Act] public access policies." Cal. Pub. Res. Code § 30603(b)(1).

After the local government has taken final action on an appealable project, it must send a notice of that final action (NOFA) to the Commission. Cal. Pub. Res. Code § 30603(d); 14 C.C.R. § 13571. Upon proper receipt of a valid NOFA, the Commission establishes an appeal period, which runs for 10 working days. Cal. Pub. Res. Code § 30603(c); 14 C.C.R. § 13110 and 13111(b). If an appeal is filed during the appeal period, the Commission must "notify the local government and the applicant that the effective date of the local government action has been suspended," 14 C.C.R. § 13572, and it must set the appeal for a hearing no later than 49 days after the date on which the appeal was filed. Cal. Pub. Res. Code § 30621(a).

Section 30625(b)(2) of the Coastal Act requires the Commission to hear an appeal of the sort involved here unless the Commission determines that no substantial issue is raised by the appeal. If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to the de novo portion of the hearing on the merits of the project then, or at a later date.

If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project either immediately or at a subsequent meeting. If the Commission conducts the de novo portion of the hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Sec. 30604(c) of the Coastal Act requires that, for a permit to be granted, a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo portion of the hearing, any person may testify.

IV. Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. A-6-NOC-12-005 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. ***A-6-NOC-12-005*** presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description. The project as approved and conditioned by the City, would allow for construction of one 30 ft. high, two-story, 33,368 sq. ft. office building and one 30 ft. high, three story, 58,970 sq. ft. office building, on an existing 14.35 acre hilltop property, comprised of two separate legal lots zoned as IL-3-I Industrial and AR-1-2 Open Space. The proposed project will include 305 on-site parking spaces, of which 142 will be surface spaces and 163 will be underground garage spaces. The proposed office complex would be accessed from the south by a two-way paved road leading from the subject development into the adjacent parking lot of a developed lot to the south. The proposed landscaping plan associated with the subject development would include a mix of tall native and non-native trees, native shrubs, and ornamental plantings and would also include an underground irrigation system.

The site is located at 11965 and 12025 Sorrento Valley Rd. directly adjacent to and west of Interstate 5, just north of Carmel Mountain Road in the Torrey Pines Community of the City of San Diego. The subject site is located on an elevated hilltop immediately

adjacent to the southbound lanes of the I-5 to the east and upland from the Los Peñasquitos Lagoon to the west. It is separated from the immediate Los Peñasquitos Lagoon habitats by Sorrento Valley Rd., which exists as a paved pedestrian/bike trail at this location and is closed to vehicular traffic. The subject site is the last remaining piece of undeveloped land separating existing industrial/office development located immediately to the south from the undeveloped land and lagoon habitats to the west and north. The subject site is outside of the designated "preserve" area, but within the Multi-Species Conservation Plan ("MSCP") northern subarea boundary.

The existing property is comprised of 8.31 acres of Southern Maritime Chaparral habitat (SMC), .92 acres of previously hydroseeded Coastal Sage Scrub habitat (CSS), 3.01 acres of non-native grassland, 1.65 acres of disturbed area, and small amounts of mule fat scrub, southern willow scrub, eucalyptus woodland, and ornamental plantings. Two existing cell phone facilities and a large billboard sign are currently present on the site. Steep slopes in excess of 25% grade occur on much of the site. However, the majority of the proposed development will take place on the flatter elevated portion of the site that consists of some previously disturbed area as well as the existing cell phone tower operations.

The project will result in direct impacts to .74 acres of Southern Maritime Chaparral habitat, .28 acres of hydroseeded Coastal Sage Scrub, and .004 acres of an existing drainage channel that the Mitigated Negative Declaration refers to as an "unvegetated non-wetland habitat." The proposed project will involve approximately 25,000 cubic yards of cut grading and require manufactured slopes and 12'-24' high retaining walls on parts of the property adjacent to the I-5 to accommodate the proposed office structures and associated underground parking garage area. A total of 4.91 acres of the property would be graded as part of the project.

The standard of review is the certified City of San Diego Local Coastal Program and the public access policies of Chapter 3 of the Coastal Act.

2. Protection of Sensitive Biological Resources. The subject site contains 9.48 acres of sensitive biological resources including wetlands and Southern Maritime Chaparral, and is also situated directly upland from the Los Peñasquitos lagoon. As such, the proposed development on the subject site has the potential to adversely impact existing on site sensitive habitat areas as well as the sensitive biological resources of the adjacent Los Peñasquitos Lagoon.

The following provisions of the certified LCP Land Development Code are applicable to the proposed project and state, in part:

Section 143.0130 - Uses Allowed Within Environmentally Sensitive Lands

Allowed uses within environmentally sensitive lands are those allowed in the applicable zone, except where limited by this section.

[...]

(d) Wetlands in the Coastal Overlay Zone. Uses permitted in wetlands shall be limited to the following:

- (1) Aquaculture, wetlands-related scientific research and wetlands-related educational uses;
- (2) Wetland restoration projects where the primary purpose is restoration of the habitat;
- (3) Incidental public service projects, where it has been demonstrated that there is no feasible less environmentally damaging location or alternative, and where mitigation measures have been provided to minimize adverse environmental effects.

(e) Wetland Buffer Areas in the Coastal Overlay Zone. Permitted uses in wetland buffer areas shall be limited to the following:

- (1) Public Access paths;
- (2) Fences;
- (3) Restoration and enhancement activities; and
- (4) Other improvements necessary to protect wetlands.

Section 143.0141 - Development Regulations for Sensitive Biological Resources

Development that proposes encroachment into sensitive biological resources or that does not qualify for an exemption pursuant to Section 143.0110(c) is subject to the following regulations and the Biology Guidelines in the Land Development Manual.

(a) State and federal law precludes adverse impacts to wetlands or listed noncovered species habitat. The applicant shall confer with the U.S. Army Corps of Engineers, U.S. Fish & Wildlife Service and/or California Department of Fish and Game before any public hearing for the development proposal. The applicant shall solicit input from the Resource Agencies on impact avoidance, minimization, mitigation and buffer requirements, including the need for upland transitional habitat. The applicant shall, to the maximum extent feasible, incorporate the Resource Agencies' recommendations prior to the first public hearing. Grading or construction permits shall not be issued for any project that impacts wetlands or Listed non-covered species habitat until all necessary federal and state permits have been obtained.

(b) Outside and inside the MHPA, impacts to wetlands, including vernal pools in naturally occurring complexes, shall be avoided. A wetland buffer shall be maintained around all wetlands as appropriate to protect the functions and values of the wetland. In the Coastal Overlay Zone the applicant shall provide a minimum 100-foot buffer, unless a lesser or greater buffer is warranted as determined through the process described in 143.0141(a). Mitigation for impacts associated with a deviation shall achieve the goal of no-net-loss and

retain in-kind functions and values.

(c) Inside the MHPA, development shall avoid impacts to narrow endemic species. Outside the MHPA, measures for protection of narrow endemic species shall be required such as management enhancement, restoration and/or transplantation. A list of narrow endemic species is included in the Biology Guidelines in the Land Development Manual.

[...]

(i) All development occurring in sensitive biological resources is subject to a site-specific impact analysis conducted by the City Manager, in accordance with the Biology Guidelines in the Land Development Manual. The impact analysis shall evaluate impacts to sensitive biological resources and CEQA sensitive species. The analysis shall determine the corresponding mitigation, where appropriate, and the requirements for protection and management. the funds and acquire or maintain habitat preservation areas....

The City's Multiple Species Conservation Subarea Plan guidelines for mitigation methods outside of the MHPA state, in part:

(2) Outside MHPA: The on-site preservation of lands outside the MHPA may be considered acceptable as mitigation provided they have long-term biological value. Long-term biological value should be assessed in terms of connectivity to larger areas of planned open space, and any potential current or future indirect impacts associated with the urban interface. As indicated above, areas containing brush management Zone 2 will be considered impact neutral (not considered an impact and not considered acceptable as a mitigation area).

(i) Connectivity: Isolated habitat patches have been shown to lack the diversity and resilience of connected systems (Noss 1983, Soule et al. 1988, Temple 1983, Wright and Hubbell 1983). In most cases, the species first to extirpate (disappear) from these isolated areas are rare species that do not adapt well to human influenced environments. Unfortunately, these species are those targeted for conservation by the MSCP.

Areas preserved on-site, but outside of the MHPA, will only generally be considered to be acceptable as mitigation if connected to the MHPA. As a general guideline, areas completely surrounded by development and areas connected by native vegetation of less than 400 feet wide for greater than 500 feet long will be considered isolated, and will not count as mitigation [...]

Site-specific studies with field observations, which incorporate the best available scientific information and methods, would be necessary to provide a basis for any modification to these standards at the project level. Other factors such as topography (steep slopes), major road systems or other large public

facility, and habitat patch size will also be considered in assessing potential isolation of a site.

Isolated areas may, on a case-by-case basis, be considered for use as mitigation where it can be reasonably demonstrated that the resource can persist in isolation (e.g. narrow endemics species or unique habitats such as vernal pools) or act as “stepping stones” for wildlife movement between portions of the MHPA.

(ii) Urban Interface: [...]

Areas outside of MHPA with significant edge effects, as determined by site specific analysis, will generally not be considered acceptable as mitigation.

Also, the Resource Management and Open Space Element, Industrial Element and Appendix E of the Torrey Pines Community Plan include the following provisions:

Resource Management and Open Space Element

GOAL 5. Preserve, enhance and restore all natural open space and sensitive resource areas, including Los Peñasquitos Lagoon and associated uplands, Torrey Pines State Park and Reserve Extension areas with its distinctive sandstone bluffs and red rock, Crest Canyon, San Dieguito Lagoon and River Valley, the Carroll Canyon Wetland/Wildlife Corridor through Sorrento Valley, [...] and all selected corridors providing linkage between these areas.

POLICY 1. Land uses adjacent to environmentally sensitive habitats shall not negatively impact those areas.

POLICY 2. Development impacts to rare, threatened, endangered, or candidate species shall be minimized or eliminated. [...]

POLICY 6. New development adjacent to and impacting biologically sensitive areas shall be responsible for the restoration and enhancement of that area. In particular, when mitigation areas are needed for public projects, the disturbed areas in Crest Canyon should be revegetated with Coastal Mixed Chaparral and Torrey Pines. [...]

POLICY 13. Conditions of approval for all development that impacts adjacent open space areas should include restoration and enhancement measures for that particular area.

Industrial Element

POLICY 3. Development proposed adjacent to environmentally sensitive resources shall not adversely impact those resources, and shall, where feasible, contribute to the enhancement of the resource.

Appendix E: Local Coastal Program Policies

Hillsides:

In the case of those landforms that consist of slopes of 25 percent and over which have been identified as possessing environmentally sensitive habitats or significant scenic

amenities or hazards to development (including major undeveloped sites with high erodibility characteristics), the following policy shall apply:

1. Slopes of 25 percent grade and over shall be preserved in their natural state, provided a minimal encroachment into the steep slope areas over 25 percent may be permitted as set forth in the following table:

25 PERCENT SLOPE ENCROACHMENT ALLOWANCE Percentage of Parcel in Slopes of 25 Percent and Over	Maximum Encroachment Allowance as Percentage of Area in Slopes of 25 Percent and Over
75% or less	10%
80%	12%
85%	14%
90%	16%
95%	18%
100%	20%

For the purposes of this ordinance, encroachment shall be defined as any area of twenty-five percent (25%) or greater slope in which the natural landform is altered by grading, is rendered incapable of supporting vegetation due to the displacement required for the building, accessory structures or paving, or is cleared of vegetation [...].

A. Impacts to Sensitive Biological Resources. The appellants contend that the impacts of the proposed development on sensitive on-site habitat areas have not been adequately analyzed and addressed. As no alternatives analysis has been discussed in the City's findings or in the MND, it is unclear if all impacts resulting from the proposed project could have been avoided or minimized. Sensitive habitat areas have been identified on site, however, the City never discussed or made a determination of whether ESHA is present on site. If the on-site habitat is deemed to be environmentally sensitive habitat area ("ESHA"), additional analysis is required to determine if impacts to such habitat to facilitate industrial development is consistent with the LCP. Therefore, a habitat determination remains necessary as well as a demonstration that all alternatives have been evaluated to avoid impacts to sensitive habitat.

B. Mitigation. The appellants contend that the City's CDP for the project, which identifies direct impacts to sensitive biological resources, has not been conditioned to provide adequate mitigation for these impacts, consistent with the applicable LDC Biology and Environmentally Sensitive Lands regulations. The City's CDP conditions of approval state that the applicant must mitigate for the .74 acres of Southern Maritime Chaparral (SMC) habitat impacts associated with the project by either 1) preserving 9.88 acres of existing on-site Southern Maritime Chaparral through a conservation easement; 2) through a monetary contribution for 2.5 acres of habitat to the City of San Diego habitat acquisition fund; **or** 3) through other off-site mitigation at the ratios stipulated in the City's Environmentally Sensitive Lands Regulations. The City indicated in its CDP

that the applicant has chosen to record a conservation easement over the 9.88 acres of existing on-site SMC habitat as the mitigation for the project's impacts to upland habitat. The submitted building plans for the proposed project indicate the limits and boundary line of this conservation easement area in relation to the proposed building site. In addition, the City's CDP requires the applicant to mitigate for the impacts to the hydroseeded Coastal Sage Scrub, located within a Caltrans Right of Way, through restoration of the impact area at a 1:1 ratio, consistent with past Commission approved mitigation requirements for similar types of hydroseeded habitat areas.

The language in the City of San Diego Biological Guidelines - Mitigation Methods, which applies to this property, specifically states that mitigation methods for areas preserved on-site but outside of the MHPA (such as the proposed on-site conservation easement area), will only generally be considered acceptable as mitigation if connected to the MHPA by an area more than 400 feet wide for greater than 500 feet long. The regulations state that areas of lesser width and length would be considered isolated, and would not count as mitigation (unless the finding can be made that small endemic habitat communities that are able to maintain viability in isolation, such as vernal pools, exist on site).

The subject conservation easement area is far less than 400 feet wide by 500 feet long and is separated from MHPA lands by the existing Sorrento Valley Road. Additionally, the City's CDP does not require restoration or enhancement of the SMC habitat within the proposed conservation easement area. Thus, even if on-site mitigation were consistent with the LCP, the City is not requiring restoration or enhancement of this conservation easement habitat area, so the approved mitigation is inadequate. The LCP also indicates that the conservation of a seemingly isolated piece of on-site SMC habitat would not qualify as acceptable mitigation pursuant to the City's Biological Guidelines for habitat impacts and mitigation on lands outside of the MHPA. The City did not provide findings in the CDP or in the associated Mitigated Negative Declaration for the project documenting that the proposed conservation easement area has adequate connectivity to MHPA lands such that it would not be considered isolated habitat.

Overall, the appellants contend that the City's CDP for the proposed development contains no conditions assuring adequate mitigation for the .74 acres of direct impacts to SMC habitat is provided as part of the proposed project, as stipulated by the Torrey Pines Community Plan and the City's Biological Guidelines and Environmentally Sensitive Lands regulations.

While there will also be .004 acres of impacts to an existing drainage channel that is designated in the MND as an unvegetated non-wetland, the impacts to this .004 acre non-wetland drainage were not raised as a substantive issue on appeal. As such, the standard mitigation requirements for wetland impacts were not applied to this portion of the project impact in the City's CDP. However, additional research is needed to assess whether this area would qualify as a wetland under the City's LCP.

The City's permit for the proposed development does not include an adequate analysis of the on-site habitat and does not contain conditions requiring sufficient mitigation measures as part of the proposed project that conform to the requirements of the LDC and the Torrey Pines Community Plan. Therefore, the appellants' contention that the City approval is inconsistent with the certified LCP, as it relates to mitigation for impacts to sensitive biological resources, raises a substantial issue.

C. Habitat Buffers. The appellants contend that the City's CDP did not include conditions requiring adequate buffer areas between on site wetland/upland habitat areas and the proposed development. A 100 ft. minimum wetland buffer is designated on portions of the building plans separating the proposed buildings from the existing wetland habitat in the off-site Los Penasquitos lagoon; however, the required 100ft. buffer area will be less than 100ft. between portions of the proposed development and the existing on-site wetlands. There are a combined .25 acres of on-site Southern Willow Scrub and Mule Fat Scrub designated as wetlands in the MND that will not be directly impacted as part of the proposed project, but which are located near the limits of the proposed building envelope. It was initially unclear from the plans and the other project materials what the wetland buffer area will be between these on-site wetlands and the proposed development, however, the RECON Biological Resources report prepared for the project states that the required 100 ft. wetland buffer between existing on-site wetland habitat and the proposed development will be reduced to a minimum of 22 ft. along certain portions of the building envelope. The findings in the Biological resources report indicate that the reduced wetland buffer was necessary to accommodate the proposed development; however, no alternatives analysis was referenced or provided indicating that there were no other feasible alternatives that would not require a reduced on-site wetland buffer. In addition, it is unclear if the City has received input from the Resource Agencies, as required by the LCP, to determine whether the reduced buffer is adequate to protect the resources in this case.

Therefore, the appellants' contention that the City approval is inconsistent with the certified LCP, as it relates to the provision of adequate buffers surrounding sensitive biological resources, raises a substantial issue.

D. Brush Management. The appellants contend that the subject development, as proposed and conditioned in the City's CDP is inconsistent with the provisions in the LDC and the Torrey pines Community Plan regarding Brush Management. Brush management for development adjacent to MHPA, such as the subject development, is typically required to include both Zone 1 and Zone 2 brush management areas, unless a low fire hazard severity rating is documented, in which case, no Zone 2 brush management is mandated. Zone 1 brush management consists of an area of various widths planted with ornamental shrubs, groundcover, and trees, and Zone 2 brush management which is only included along a small portion of the subject site where it borders the I-5 to the east and includes a 65 sq. ft. area of existing hydroseeded coastal sage scrub. The MND for the proposed project states that the surface parking lots on the western portion of the site would preclude the need for brush management. The landscape concept plan for the proposed project indicates that the parking lot on the

western portion of the development will function as Brush Management Zone 1 in addition to a 4' strip westward of the parking lot boundary that will be planted with ornamental shrubs. There is no Zone 2 proposed on the westward portion of the development site.

Zone 1 brush management areas (consisting of the proposed parking lot and 4' planting strip) directly abut existing steep hillsides vegetated with SMC habitat area that is shown within the proposed easement area. As the Torrey Pines Community Plan states that brush or native vegetative growth on steep slopes must be controlled to protect existing and proposed structures from fire hazards, there exists the potential for additional impacts to the SMC habitat area to occur where no Brush Management Zone 2 has been identified and naturally vegetated steep slopes are within 4' of the proposed development on site. The City has not included any findings stating that there is low fire hazard severity on parts of the site adjacent to SMC or provided any explanation as to why Zone 2 brush management is only proposed on part of the site. As such, it is unclear in the City's CDP what impacts to biologically sensitive habitat will occur on site as a result of brush management.

The RECON Biological resources report for the proposed project identifies Zone 1 and Zone 2 brush management on the eastern portion of the site abutting the I-5 freeway and states that the habitat impacts due to brush management Zone 1 and 2 in this area (.11 acre of hydroseeded coastal sage scrub) will be mitigated as part of the proposed mitigation plan. Other than this .11 acre impact area within brush management Zone 1 and 2, there are no mitigation measures proposed for brush management around the remainder of the site, the majority of which directly abuts southern maritime chaparral, an endemic habitat community adapted and prone to periodic fires.

The Resource Management and Open Space Element of the Torrey Pines Community Plan guidelines, which apply to development on the subject site, state:

Brush Management

Because of the abundance of natural open space areas including canyons rich with native vegetation, special brush management consideration and enforcement should be provided within the Torrey Pines planning area.

Currently all development within Torrey Pines must comply with the Uniform Fire Code and Section 6 (Brush Management) of the City of San Diego's Landscape Technical Manual. In summary, these codes state that brush or native vegetative growth on steep slopes must be controlled to protect existing and proposed structures from fire hazards.

[...].

In order to provide an effective fuel modification zone surrounding the proposed building, consistent with the brush management requirements in the applicable LUP, further brush clearance of steep hillsides and SMC habitat may be required. The proximity of steep slopes and the SMC habitat/ proposed conservation easement area to the proposed building envelope could potentially result in further impacts to biologically sensitive habitat on-site that is not mitigated through the City's current CDP for the

subject project. The City and the applicant have not provided information documenting why the project could not be designed to avoid these potential impacts. As such, the project raises a substantial issue with regards to protection of sensitive biological resources on site through adequate brush management.

In summary, as addressed above, the City's approval of the proposed development is inconsistent with the policies of the certified LCP relating to protection of sensitive biological resources and lagoon habitats in the Torrey Pines community, as well as the policies of the City of San Diego's Biology Guidelines, Environmentally Sensitive Land Regulations and the MSCP Subarea Plan regarding habitat impacts and mitigation requirements. Therefore, the project raises a substantial issue with regards to protection of sensitive biological resources.

3. Drainage. The City of San Diego's MSCP Subarea Plan lists drainage and runoff as a major issue affecting the Los Peñasquitos Lagoon. The encroachment of development nearby and increase in impervious surfaces has resulted in increased runoff, sedimentation, and pollution in the Los Peñasquitos Lagoon.

The Torrey Pines Community Plan includes the following policies:

Resource Management and Open Space Element

POLICY 12. Maintain regulations that prohibit contaminated runoff from reaching any of the sensitive open space areas designated in this Plan.

Carroll Canyon Wetland/Wildlife Corridor

This open space corridor runs the length of Sorrento Valley and provides an important linkage between Carroll Canyon and Los Peñasquitos Lagoon. The majority of this corridor is privately owned and consists primarily of wetlands containing riparian vegetation. Some portions of this corridor have been channelized and most of it has experienced urban encroachment. However, this area continues to support riparian habitat and provides a significant linkage for many plant and animal species between two significant open space resource areas.

- 1. All new development proposed adjacent to this open space corridor shall incorporate the urban design guidelines located within the **Industrial Element** as appropriate.*
- 2. New development proposed adjacent to this open space corridor shall not contribute to increased sediment loading of the wetland, disturbance of its habitat values, or otherwise impair the functional capacity of the wetland.*
- 3. New development proposed adjacent to and impacting this open space corridor shall enhance and improve the habitat value of this system.*

Given the topography of the site and its direct proximity to Los Peñasquitos Lagoon and its environmentally sensitive habitats, the Appellants contend that the City's CDP for the project has not been adequately conditioned to ensure consistency with the policies of the Torrey Pines Community Plan that seek to prevent further pollution or sedimentation of the Los Peñasquitos Lagoon. The project has been proposed and conditioned to incorporate on-site storm water detention measures as well as storm water and runoff management devices that will reduce the amount of runoff and sediment that reaches the

lagoon. Although the City has conditioned the project to require storm water management and water pollution prevention measures, there is no monitoring condition on the City CDP that will ensure the effectiveness and long term management of the proposed water and drainage systems. As such, the appellants' contention that the City approval is inconsistent with the certified LCP, as it relates to protecting downstream resources, raises a substantial issue.

4. Avian Collisions. The two proposed buildings will be two and three stories high, respectively, on their lagoon-facing sides and completely faced with glass. There exists the potential for avian collisions along portions of the two buildings that are oriented towards the open space area and Los Peñasquitos Lagoon. The RECON biological Resource Survey report prepared for the proposed project identified that populations of Belding's Orange-throated whiptail, a species of special concern listed by CDFG, were recorded on the subject site during the most recent 2011 survey. Coastal California Gnatcatchers, which are considered a threatened species, were also observed on site, during a 1989, 1992, 1997 and 2002 biological survey conducted by RECON. The MND for the project addresses the lighting standards mitigation measure provided under the MSCP subarea plan land use adjacency guidelines mitigation heading (i.e. all lights including street lights and pedestrian walkways should be directed away from and fully shielded so as not to illuminate adjacent biological resource areas of concern), however, the project is not conditioned by the City to require the use of non-reflective glass be used on the exterior of the building or the treatment of building windows to prevent indoor light from shining through and causing bird disorientation. These measures should be incorporated into the MND's mitigation measures and carried forward as conditions (including recordation on construction documents) for the Sorrento Pointe project to reduce the potential for avian collisions as a result of the proposed project

The Resource Management and Open Space Element of the Torrey Pines Community Plan guidelines, which apply to development on the subject site, state:

POLICIES

1. Land uses adjacent to environmentally sensitive habitats shall not negatively impact those areas.
2. Development impacts to rare, threatened, endangered, or candidate species shall be minimized or eliminated.

Additionally, the Industrial Element of the Torrey Pines Community Plan guidelines, which apply to development on the subject site, state:

Industrial Element

POLICY 3. Development proposed adjacent to environmentally sensitive resources shall not adversely impact those resources, and shall, where feasible, contribute to the enhancement of the resource.

The subject site lies directly adjacent to the Los Penasquitos lagoon, which provides habitat for large populations of endemic and threatened bird species and acts as a haven for such birds during their breeding season. Additionally, as there have been populations of sensitive native bird species identified on the subject site during numerous biological surveys, the Appellants contend that the potential exists for avian collisions to occur as a result of the proposed development. The City has not fully analyzed or provided sufficient mitigation for such potential impacts, which raises a significant local and regional issue with respect to protection of bird species.

5. Visual Impacts. The subject site is a prominent and undeveloped upland landform adjacent to the Los Penasquitos Lagoon, and any development on the site could potentially impact the existing public viewshed in the area. The development would be highly visible from the public Marsh Trail in the Torrey Pines State Reserve as well as the adjacent public pedestrian/biking trail that borders the western portion of the property (Sorrento Valley Rd.). The project site is also visible from areas of the Los Penasquitos Lagoon, as well as Coast Highway 101 and Carmel Valley Rd, which are both scenic coastal roadways. The proposed development consists of two buildings, which have different elevations depending on which direction the development would be viewed from. The approximate elevations from finished grade, as documented in the submitted building plan, are as follows:

WEST ELEVATION

Building 1: 40'

Building 2: 45'

NORTH ELEVATION

Building 1: 47'

Building 2 is not visible from this direction

EAST ELEVATION

Building 1: 50'

Building 2: 45'

The applicant has indicated that they will use a visually compatible color palette for the structures and utilize native Torrey Pines and Nuttall's scrub oak along the perimeter of the building to screen the development. However, it is unclear what, if any, alternatives or alternate building designs were considered that could minimize potential visual impacts from the two-story and three-story buildings.

The following LCP provisions are applicable and state, in part:

Industrial Element

Goal 8. Restrict industrial development on steep slopes, wetlands, riparian habitats, and on archaeological sites, and further encroachment into Los Peñasquitos Lagoon and the Carroll Canyon Creek Corridor, and design industrial projects to blend into adjacent open space areas.

Appendix E: Local Coastal Program Policies

Hillsides:

Within the Coastal Zone, landforms that consist of slopes of 25 percent grade and over that have not been identified as possessing environmentally sensitive habitats, significant scenic amenities or hazards to developments, may be developed provided the applicant can demonstrate all of the following:

1. To protect the scenic and visual qualities of the site as seen from public vantage points, recreational areas, and roads or highways, the proposed development shall minimize the alteration of natural landforms and create only new slopes that are topographically compatible with natural landforms

Visual Resources:

The State Coastal Act states that the scenic and visual qualities of the coastal areas shall be considered and protected as a resource of public importance. The Torrey Pines community planning area possesses many highly scenic open space areas and dramatic vistas. Torrey Pines also has a number of road segments that have scenic qualities worthy of formal recognition and protection. This Plan contains numerous recommendations, policies and implementing actions focusing on the preservation of these visual resources including:

1. Significant scenic resource areas including San Dieguito River Regional Park, Crest Canyon, Torrey Pines State Reserve Extension, Los Peñasquitos Lagoon, and the Carroll Canyon Creek Corridor have been designated and rezoned to open space.

2. Three road segments possessing dramatic vistas are recommended for a Scenic Route designation including North Torrey Pines Road, Carmel Valley Road, and Sorrento Valley Road.

[...]

11. The Plan recommends the preservation of Torrey Pines trees in private as well as public areas, and encourages the planting of Torrey Pines trees in roadways and other landscaped areas. Should Torrey Pines trees require removal, relocation or replacement of the trees shall occur whenever feasible.

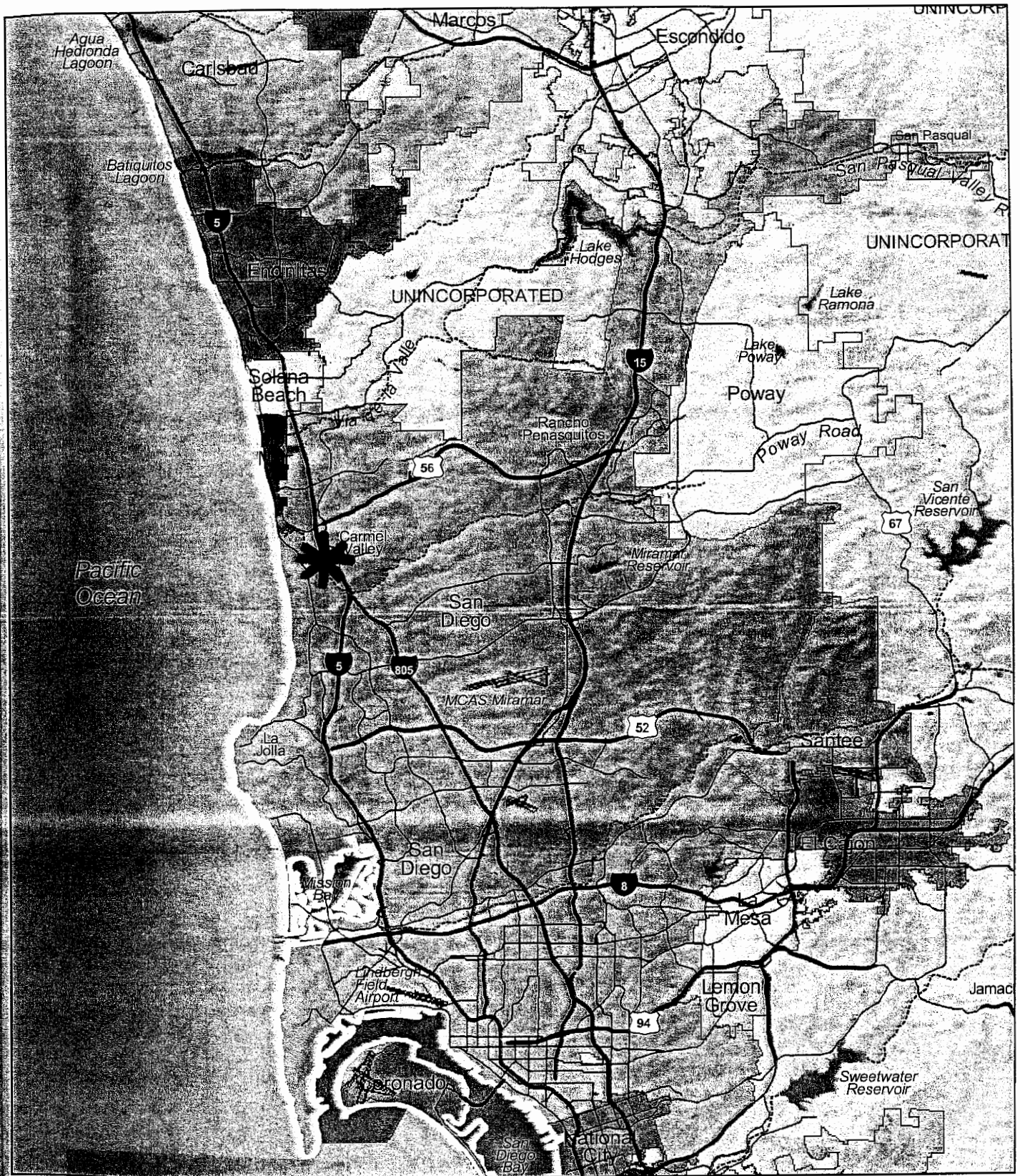
12. New residential, commercial, and industrial development shall provide landscape buffers to screen views of the buildings from designated scenic roadways of the surrounding area.

The Appellants contend that as a result of the existing topography and visual prominence of the subject site, the proposed development would result in impacts to the scenic visual resources of the area that have not been minimized to the degree that they can be found consistent with the provisions in the Torrey Pines Community Plan. The subject site is situated to the northwest of the existing line of development in the area and is bordered on the north and west mostly by open space and upland habitat, effectively acting as a physical and visual buffer between sensitive upland and lagoon habitats and industrial development in the area. Additionally, the subject site is elevated above the developed portions of Sorrento Valley to the south and Interstate 5 to the east and, as such, while the proposed structures might be similar in bulk and design as other development in the area, the proposed development will be far more visually obtrusive due to the existing elevation of the subject site. There is no information in the City's CDP findings or in the MND to indicate that alternative building designs and configurations were considered

that could potentially reduce the visibility of development on the subject site. As such, the appellants' contention that the City approval is inconsistent with the certified LCP, as it relates to protection of visual resources, raises a substantial issue.

6. Conclusion. Based on the information cited above, it appears the City's approval of the proposed development is inconsistent with resource protection policies of the City's certified LCP and the Torrey Pines Community Plan. Impacts to sensitive biological resources are approved without documenting that they cannot be avoided or minimized and proposed mitigation measures are not consistent with the LDC and Torrey Pines Community Plan. Further impacts to on site sensitive upland habitats and wetlands, which have not been addressed or mitigated for through the City's CDP, could also occur as a result of inadequate buffer areas and brush management zones. Additionally, the City's CDP is not conditioned to ensure that the proposed development eliminates or minimizes, to the maximum extent feasible, the potential for avian collisions. Regarding drainage on the subject site, the City's CDP for the permit has not been adequately conditioned to ensure consistency with the policies of the Torrey Pines Community Plan that seek to prevent further pollution or sedimentation of the Los Peñasquitos Lagoon. Furthermore, the visual impacts resulting from the proposed development have not been properly analyzed, minimized or mitigated for through the City's CDP and would adversely effect the existing scenic visual resources of the subject site and the surrounding area to a degree found inconsistent with the provisions in the Torrey Pines Community Plan. Therefore, the Commission finds that a substantial issue exists with respect to the consistency of the local government action with the City's certified Local Coastal Program.

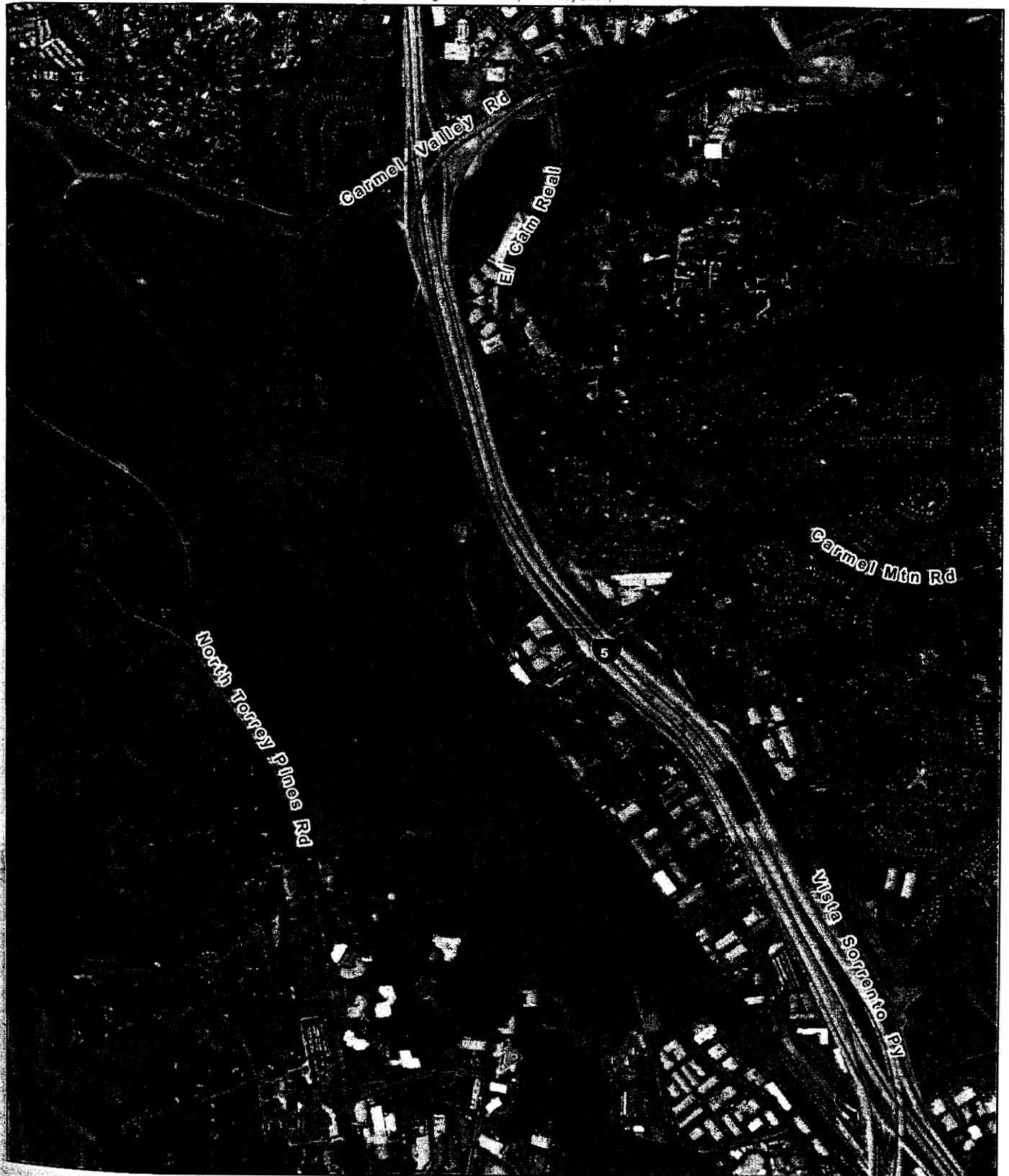
7. Substantial Issue Factors. As discussed above, there is inadequate factual and legal support for the City's determination that the proposed development is consistent with the certified LCP. The other factors that the Commission normally considers when evaluating whether a local government's action raises a substantial issue also support a finding of substantial issue. The objections to the project suggested by the appellants raise substantial issues of regional or statewide significance and the decision creates a poor precedent with respect to the protection of sensitive biological resources. In addition, the coastal resources affected by the decision are significant.



* Project Location

RECON

EXHIBIT NO. 1
APPLICATION NO.
A-6-NOC-12-005
Location Map
Page 1 of 2
California Coastal Commission



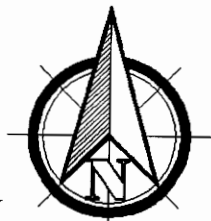
0 Feet 1,500



Project Boundary



City of San Diego MHPA






RECON

M:\JOBS\2925-1\common_gis\fig5_bio.mxd 9/8/2010

FIGURE 5

Project Site in Relation to MHPA



-  Project Boundary
-  Project Impacts
-  Wetland (City of San Diego)


0 Feet 200 

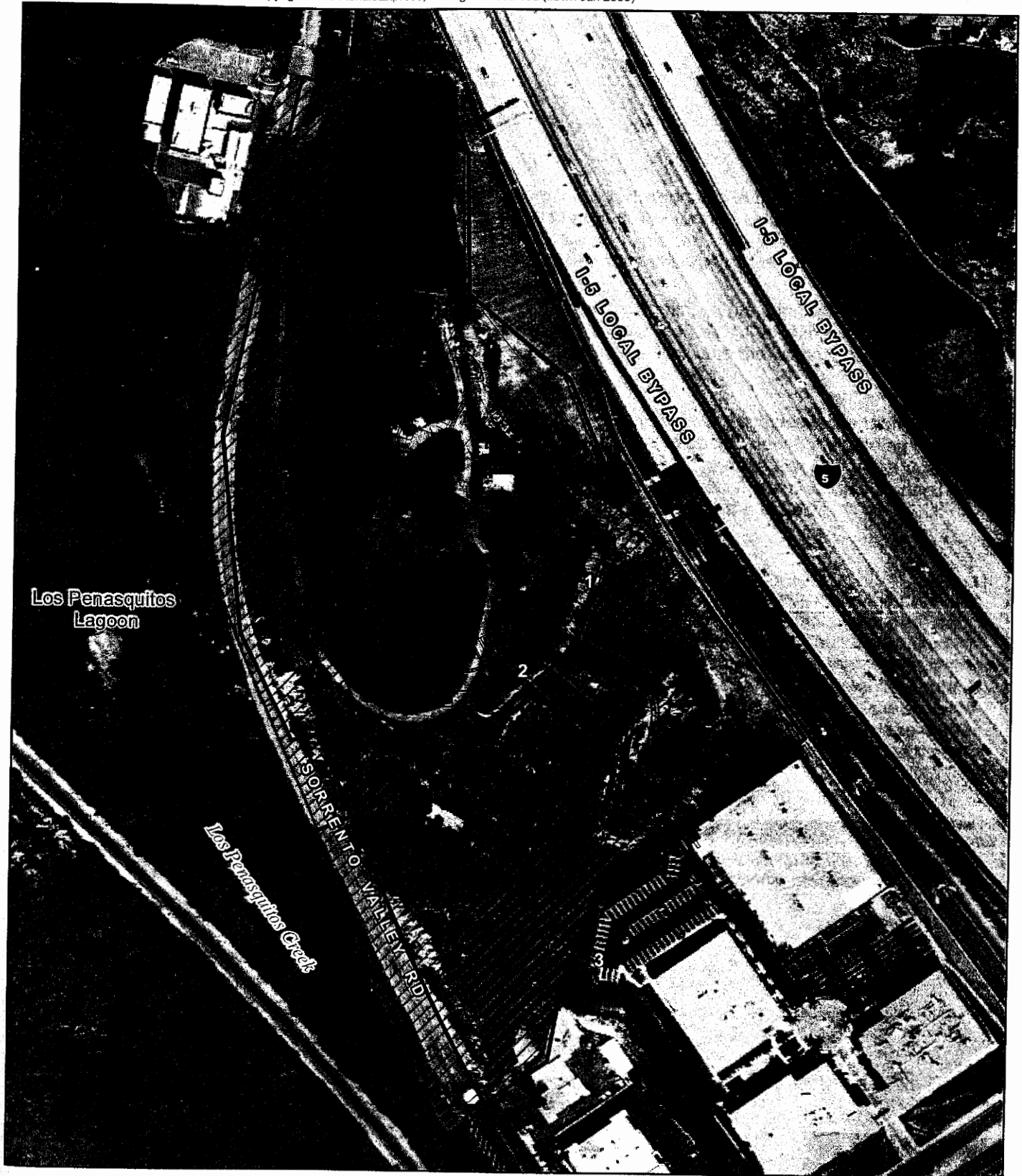
EXHIBIT NO. 2
APPLICATION NO.
A-6-NOC-12-005

Site Plan

 California Coastal Commission

RECON

Lo
Jurisdictional Wetland



Project Boundary

Plan Lines

Jurisdictional Waters

CDFG Wetland

CDFG Streambed



Proposed Wetland Buffer



Sorrento
Propo

EXHIBIT NO. 3

APPLICATION NO.

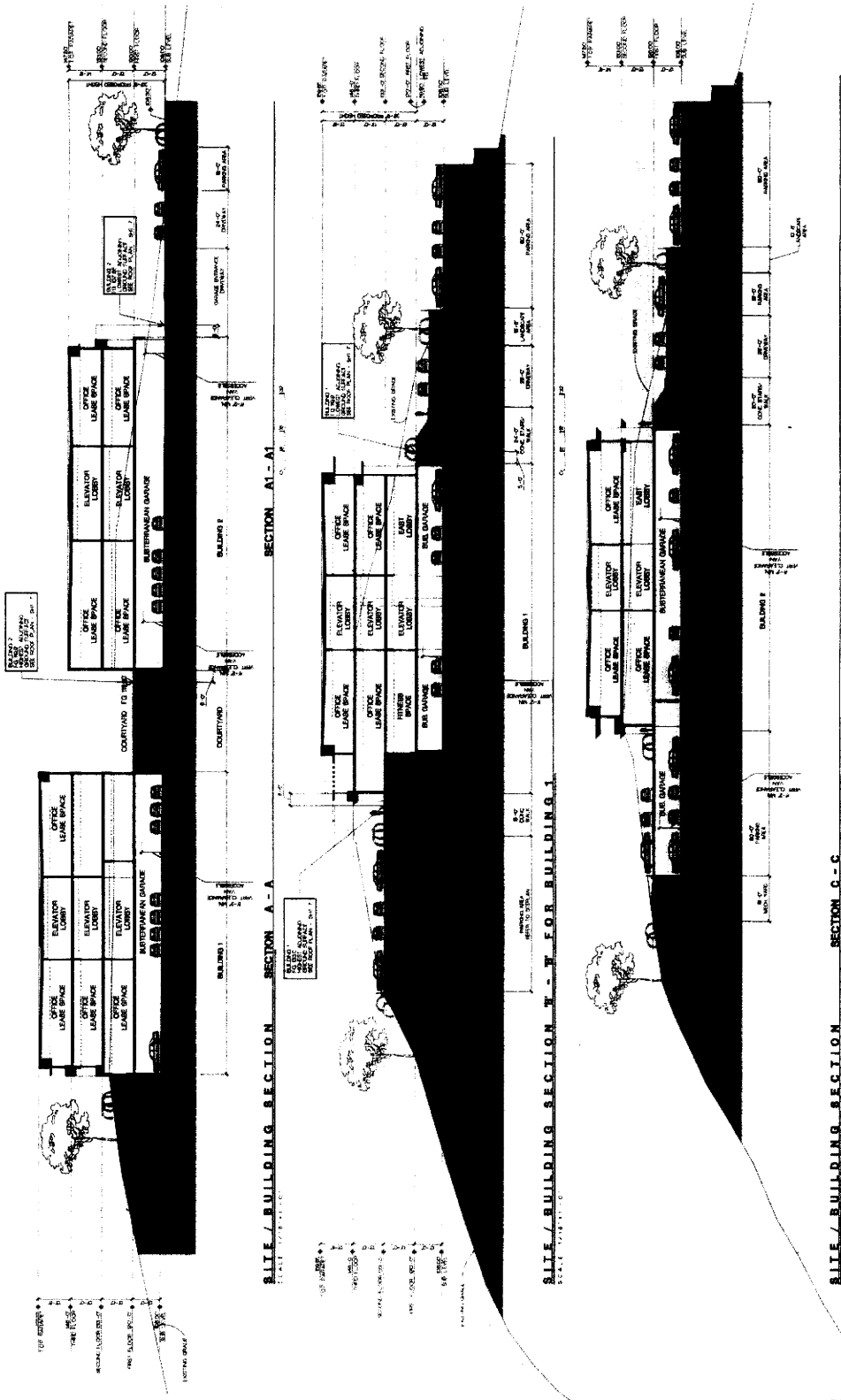
A-6-NOC-12-005

Wetland Buffers



California Coastal Commission

RECON



Not to Scale

ATTACHMENT B
Elevations

EXHIBIT NO. 4

APPLICATION NO.

A-6-NOC-12-005

Elevations

California Coastal Commission

11/18/11

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6-NOC-12-002

RECEIVED

DEC 29 2011

COASTAL DEVELOPMENT PERMIT

NOTICE OF FINAL ACTION

California Coastal Commission, San Diego Area Office
7575 Metropolitan Drive, Suite 103, San Diego, CA 92108-4402
Phone (619) 767-2370

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

DATE: December 22, 2011

The following project is located within the City of San Diego Coastal Zone. A Coastal Permit application for the project has been acted upon as follows:

PROJECT NAME - NUMBER: SORRENTO POINTE – PTS#144031, Mitigated Negative Declaration No. 144031

PROJECT DESCRIPTION: Construction of one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements with one deviation on 4.10 acres of a 14.35 acre site at 11965 and 12025 Sorrento Valley Road, north of Carmel Mountain Road, in the AR-1-2 and IL-3-1 Zones within the Torrey Pines Community Plan area.

LOCATION: 11965 and 12025 Sorrento Valley Road, north of Carmel Mountain Road

APPLICANT'S NAME Sorrento Valley Holdings I, L.P. and Sorrento Valley Holdings II, L.P.

FINAL ACTION: APPROVED WITH CONDITIONS

ACTION BY: Planning Commission

ACTION DATE: December 8, 2011

CONDITIONS OF APPROVAL: See attached Permit.

FINDINGS: See attached Resolution.

☒ Appealable to the Coastal Commission pursuant to Coastal Act Section 30603. An aggrieved person may appeal this decision to the Coastal Commission only after a decision by the City Council (or Planning Commission for Process 2 and 3 Coastal Development Permits) and within ten (10) working days following Coastal Commission receipt of this Notice, as to the date the Commission's appeal period will conclude.

CITY CONTACT: John S. Fisher
Development Services Department
1222 First Avenue, MS 302
San Diego, CA 92101-4153
Phone: (619) 446-5231

EXHIBIT NO. 5
APPLICATION NO.
A-6-NOC-12-005

City NOFA
Page 1 of 29
California Coastal Commission

RECEIVED

DEC 29 2011

PLANNING COMMISSION RESOLUTION NO. 4746-PC-1
PLANNED DEVELOPMENT PERMIT NO. 503978, SITE DEVELOPMENT PERMIT NO. 503979
AND COASTAL DEVELOPMENT PERMIT NO. 503977
SORRENTO POINTE PROJECT NO. 144031 - [MMRP]

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

WHEREAS, SORRENTO VALLEY HOLDINGS I, L.P., a California limited partnership & SORRENTO VALLEY HOLDINGS II, L.P., a California limited partnership, Owners/Permittees, filed an application with the City of San Diego for a permit to construct one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit Nos. 503978, 503979 and 503977), on portions of a 14.35 acre site;

WHEREAS, the project site is located at 11965 and 12025 Sorrento Valley Road, north of Carmel Mountain Road, in the AR-1-2 and IL-3-1 Zones within the Torrey Pines Community Plan area;

WHEREAS, the project site is legally described as: Parcel 2 of Parcel Map No. 18158 filed in the Office of the County Recorder of San Diego County on December 4, 1998; and portions of: Lot 7 in Section 25, Township 14 South, Range 4 West, San Bernardino Meridian; Lot 4 in Section 30, Township 14 South, Range 3 West, San Bernardino Meridian; and Pueblo Lot 1362 of the Pueblo Lands of San Diego, according to Miscellaneous Map No. 36 filed in the Office of the County Recorder of San Diego County.; All in the City of San Diego, County of San Diego, State of California;

WHEREAS, on December 8, 2011, the Planning Commission of the City of San Diego considered Planned Development Permit No. 503978, Site Development Permit No. 503979 and Coastal Development Permit No. 503977 pursuant to the Land Development Code of the City of San Diego;

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated December 8, 2011.

FINDINGS:

Planned Development Permit - Section 126.0604

A. Findings for all Planned Development Permits

1. The proposed development will not adversely affect the applicable land use plan. The Sorrento Pointe project will remove existing cellular facilities visible from public vantage points and construct one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements. Further, the project will provide protections to valuable sensitive habitat and steep slopes on the property outside of the area devoted to development. The Torrey Pines Community Plan identifies this site for industrial development. Industrial development in the Torrey Pines planning area is contained in Sorrento Valley, which contains

approximately 380 acres of industrially-designated property. Industrial development in Sorrento Valley includes manufacturing firms, research and development, laboratories, offices, industrial services, incubator industry and business uses, and support commercial and retail uses.

The Torrey Pines Community Plan designates the site as Industrial Element and is currently zoned IL-3-1 (Light Industrial, Office, and Commercial Uses) and AR-1-2 (Agricultural-Residential).

The Torrey Pines Community Plan contains eleven key policies, two of which relate directly to sites designated for industrial development. These policies state: 1) all development adjacent to open space areas shall be designed to reduce visual and development impacts, and 2) new industrial and commercial development proposed adjacent to identified open space corridors shall contribute to the preservation of these areas. The Sorrento Pointe Project has been designed to reduce visual and development impacts by integrating the buildings into the project site so that when viewed from the open space or other sensitive public vantage points the development will be the least visually intrusive. This will be achieved by (1) a split floor design such that from the west elevation the building will be three stories high and from the east elevation the building will be two stories in height, (2) by providing underground parking below the building to minimize the number of ground level parking spaces and (3) by excavating building pads rather than forming raised building pads so that the project buildings will be drawn down into the hillside site rather than placing the building on a raised building pad. In addition, the materials, colors and textures of the proposed buildings have been chosen to compliment the existing natural surroundings to reduce the visual appearance of the development and to protect the visually sensitive nature of the Los Peñasquitos Lagoon open space adjacent to Sorrento Valley Road immediately west of the site. To reduce development impacts, the development footprint has been sited in areas previously disturbed by past development activities and use of the site. While the site is not adjacent to identified open space corridor the project will contribute to the preservation of open space corridors by preserving all undeveloped portions of the site in a conservation easement. The proposed project is therefore consistent with these Torrey Pines Community Plan policies.

The Industrial Element of the Torrey Pines Community Plan contains eight goals for industrial development in the community, these goals are: 1) emphasize the citywide importance of and encourage the location of scientific research, biotechnology, and light manufacturing uses in Sorrento Valley because of its proximity to UCSD and the University and Mira Mesa communities' industrial areas. Ensure adequate transit/transportation facilities are provided, 2) Ensure that industrial land needs as required for a balanced economy and balanced land use are met consistent with environmental considerations, 3) Contain industrial development within areas specifically designated for industrial usage, 4) Restore and enhance the Carroll Canyon Creek Wildlife Corridor and the Los Peñasquitos Lagoon, 5) Encourage new industrial development to be well designed and aesthetically pleasing, and 6) Provide easy access to the Sorrento Valley employment area through bicycling, mass transit, and transit-oriented development such as providing safe and direct pedestrian connections and a convenient mix of uses, 7) Minimize traffic impacts from new industrial development through the implementation of Transportation Demand Management programs. New industrial development should provide opportunities for staggered shifts, four day work weeks, and other similar alternatives, and should incorporate services such as locker rooms, child care centers, restaurants, post offices, dry cleaners and gift shops to minimize the need for auto trips and make car pooling a more attractive option, and 8)

Restrict industrial development on steep slopes, wetlands, riparian habitats and on archaeological sites, and further encroachment into Los Peñasquitos Lagoon and Carroll Canyon Creek Corridor, and design industrial projects to blend into adjacent open space areas.

The proposed project is consistent with goal number 1 because the site will encourage the location of scientific research and biotechnology uses and for industries that support scientific research and biotechnology, by making available additional space and office space for these and other uses. The project will also support the provision of adequate transportation facilities in that a portion of the property was used to facilitate the expansion of Interstate 5 and will provide all necessary parking on-site to serve the needs of the users of the site.

The proposed project is consistent with goal number 2 because the use is consistent with the Torrey Pines Community Plan, zoning and the project has been designed so that development will occur on portions of the site that had been previously impacted by development and will conserve the biologically sensitive and steep hillside portions of the site not previously impacted by earlier development activities and uses.

The proposed project is consistent with goal number 3 because the Torrey Pines Community Plan designates the project site as Industrial Element and development will be located within the project site areas zoned IL-3-1.

The proposed project is consistent with goal number 4 in that the project approvals require the project to contribute to the Los Peñasquitos Lagoon Enhancement Fund, the open space to be provided by the project will provide a buffer and the project will construct an enhanced drainage system that will contribute to improving surface water runoff quality.

The proposed project is consistent with goal number 5 because the project has been designed to incorporate the new structures into the site so that when viewed from open space areas or other sensitive public vantage points the development will be the least visually intrusive, the location of the proposed development will be sited in areas previously disturbed by past development activities and use of the site, and the materials, colors and textures of the proposed buildings will compliment the existing natural surroundings to reduce the visual appearance of the development and to protect the visually sensitive nature of the open space adjacent to Sorrento Valley Road immediately west of the site.

The proposed project is consistent with goal number 6 in that the proposed development will provide physical access to other areas of Sorrento Valley by means of the internal circulation system linked to public rights-of-way. The project will also provide bicycle spaces, personal lockers and shower facilities to encourage alternative modes of transportation. The project will not remove an existing driveway from the site to Sorrento Valley Road and will allow the driveway to be used as a pedestrian trail, yet not for vehicular use.

The proposed project is consistent with goal number 7 in that the project approvals require the development to provide bicycle storage spaces and shower facilities to encourage alternative modes of transportation.

The proposed project is consistent with goal number 8 in that the proposed development will limit development of the site to those areas previously disturbed by development on the site, will

comply with the limitations codified in the regulations addressing development on steep slopes, wetlands, riparian habitats and on archaeological sites, the project approvals require the project to comply with the regulations addressing development on steep slopes, wetlands, riparian habitats and on archaeological sites, and the project will not encroach into Los Peñasquitos Lagoon and Carroll Canyon Creek Corridor, and the project has been designed to compliment adjacent open space areas through the use of materials, colors and textures on the buildings to compliment the existing natural surroundings and reduce the visual appearance of the development and to protect the visually sensitive nature of the open space adjacent to Sorrento Valley Road immediately west of the site. In that the project as proposed will be consistent with the policies, goals and objectives of the Torrey Pines Community Plan for industrial development, the proposed project will not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The Sorrento Pointe project will remove existing cellular facilities visible from public vantage points and construct one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements. Further, the project will provide protections to valuable sensitive habitat and steep slopes on the property outside of the area devoted to development. The new office buildings will incorporate and implement many features to conserve energy, such as: high efficiency heating, ventilation and air conditioning units, central energy management, and other conservation oriented features.

The Sorrento Pointe project will not be detrimental to public health, safety and welfare because the permit controlling the development and continued use of the proposed project for this site contains specific conditions addressing the project compliance with the City's codes, policies, regulations and other regional, state, and federal regulations to prevent detrimental impacts to the health, safety and general welfare of persons residing and/or working in the area. Conditions of approval require compliance with several operational constraints and development controls intended to assure the continued health, safety and general welfare of persons residing or working in the area.

Further, the Sorrento Pointe project will construct the necessary sewer and water improvements required to serve the project. The visual appearance of the site will be improved by the removal of the existing cellular facilities visible from public vantage points. New cellular facilities will be integrated into the design of the buildings and will not be visible. The addition of significant landscaping and the design of the building materials, textures, and colors will compliment the natural landscape of the Los Peñasquitos Lagoon and Torrey Pines State Beach.

All of the construction plans associated with the project will be reviewed prior to issuance of a construction permit and inspected during construction to assure the project will meet or exceed all relevant and applicable building, electrical, mechanical, plumbing and fire codes. As such the Sorrento Pointe project will not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the regulations of the Land Development Code. The Sorrento Pointe project will remove existing cellular facilities visible from public vantage points and construct one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings,

subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements. Further, the project will provide protections to valuable sensitive habitat and steep slopes on the property outside of the area devoted to development. The new office buildings will incorporate and implement many features to conserve energy, such as: high efficiency heating, ventilation and air conditioning units, central energy management, and other conservation oriented features, comply with the regulations of the Land Development Code. The project is located in the IL-3-1 Industrial Park-Light Zone, which allows a mix of light industrial and office uses. The proposed uses are permitted uses in the IL-3-1 zone. The project is in compliance with the Lot Area, Lot Dimensions, Setbacks, Height, FAR and Outdoor Amenities of the Development Regulations for Industrial Zones of the Land Use Development Code as summarized in Exhibit "A". The development will comply with the regulations of the Land Development Code and where a deviation is required to approve the project this deviation is supported by the facts necessary to approve the deviation and the required deviation has been approved by the designated decision-maker. In addition the project approvals require the project to comply with the regulations of the Land Development Code. In all other respects the development will comply with the regulations of the Land Development Code.

4. The proposed development, when considered as a whole, will be beneficial to the community. When considered as a whole, the Sorrento Pointe project will be beneficial to the community by removing existing cellular facilities visible from public vantage points and one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements. Further, the project will provide protections to valuable sensitive habitat and steep slopes on the property outside of the area devoted to development. The new office buildings will incorporate and implement many features to conserve energy, such as: high efficiency heating, ventilation and air conditioning units, central energy management, and other conservation oriented features. In that the project as proposed will be consistent with the policies, goals and objectives of the Torrey Pines Community Plan for industrial development and the proposed project will not adversely affect the applicable land use plan and the site will be developed with a building and site design complimentary to the nearby open space areas by the choosing materials, colors and textures of the buildings to compliment the existing natural surroundings and reduce the visual appearance of the development and to protect the visually sensitive nature of the open space adjacent to Sorrento Valley Road immediately west of the site, the development, when considered as a whole, will benefit the community.

5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The Sorrento Pointe project will remove existing cellular facilities visible from public vantage points and construct one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements. Further, the project will provide protections to valuable sensitive habitat and steep slopes on the property outside of the area devoted to development. The new office buildings will incorporate and implement many features to conserve energy, such as: high efficiency heating, ventilation and air conditioning units, central energy management, and other conservation oriented features.

The proposed deviation is appropriate for the project location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the IL-3-1 zone. The deviation from Land Development Code section 142.0340(e); to exceed the maximum retaining wall height is justified. The maximum retaining wall height without a deviation is twelve feet. The deviation to allow a maximum twenty-four foot retaining wall and other retaining walls that vary from twelve to twenty-four feet where a maximum wall height of twelve feet is allowed will reduce grading on the site and therefore provide greater protection of sensitive habitats by reducing the extent of grading on the project site than if the deviation were not approved. The deviation to exceed the maximum retaining wall height is a superior design. The retaining wall height deviation will contribute to realizing the redevelopment and improvement on this site and to preserving sensitive habitat by requiring additional protections for such sensitive habitat. By reducing the area of grading on the site by constructing a retaining wall where appropriate and feasible, less impact to sensitive habitats will occur as a result of developing the site. Reducing the area of grading on the site by constructing retaining walls where appropriate and feasible, less area as measured in acres is graded which directly reduces the impacts to sensitive habitat. Since the retaining wall height deviation reduces the area necessary for graded slopes more protection for sensitive habitat is realized. In this way the retaining wall height deviation contributes to the protection for sensitive habitat at this site and is a reasonable deviation.

The retaining walls will not be visible from any public vantage points except from a distance of over a mile. At a distance of over one mile the view of the walls will be visually insignificant. Further, as the proposed landscaping matures on the site at the base of the retaining walls, the walls will no longer be visible from any distance. The base of the retaining walls will be planted with trees, shrubs and climbing vines which will eventually obscure any view of the walls.

Site Development Permit - Section 126.0504

A. Findings for all Site Development Permits

1. **The proposed development will not adversely affect the applicable land use plan.** The Sorrento Pointe project will remove existing cellular facilities visible from public vantage points and construct one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements. Further, the project will provide protections to valuable sensitive habitat and steep slopes on the property outside of the area devoted to development. The new office buildings will incorporate and implement many features to conserve energy, such as: high efficiency heating, ventilation and air conditioning units, central energy management, and other conservation oriented features. For additional information, see Planned Development Permit Finding No. 1 above.

2. **The proposed development will not be detrimental to the public health, safety, and welfare.** The Sorrento Pointe project will remove existing cellular facilities visible from public vantage points and construct one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to

within the new buildings and other site improvements. Further, the project will provide protections to valuable sensitive habitat and steep slopes on the property outside of the area devoted to development. The new office buildings will incorporate and implement many features to conserve energy, such as: high efficiency heating, ventilation and air conditioning units, central energy management, and other conservation oriented features. For additional information, see Planned Development Permit Finding No. 2 above.

3. The proposed development will comply with the applicable regulations of the Land Development Code. The Sorrento Pointe project will remove existing cellular facilities visible from public vantage points and construct one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements. Further, the project will provide protections to valuable sensitive habitat and steep slopes on the property outside of the area devoted to development. The new office buildings will incorporate and implement many features to conserve energy, such as: high efficiency heating, ventilation and air conditioning units, central energy management, and other conservation oriented features. For additional information, see Planned Development Permit Finding No. 3 above.

B. Supplemental Findings--Environmentally Sensitive Lands

1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands. The Sorrento Pointe project will remove existing cellular facilities visible from public vantage points and construct one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements. Further, the project will provide protections to valuable sensitive habitat and steep slopes on the property outside of the area devoted to development. The new office buildings will incorporate and implement many features to conserve energy, such as: high efficiency heating, ventilation and air conditioning units, central energy management, and other conservation oriented features. For additional information, see Planned Development Permit Finding No. 5 above.

To further minimize the potential adverse effects on environmentally sensitive lands, the Sorrento Pointe project will implement the following measures:

Impacts from the project to 0.66-acre of southern maritime chaparral, a sensitive biological resource and environmentally sensitive land, will be mitigated either on-site through preservation of undisturbed southern maritime chaparral to remain within a covenant of easement, or through a contribution to the City of San Diego Habitat Acquisition Fund.

Impacts to jurisdictional wetlands on the site have been avoided. Impacts to non-wetland waters/streambeds in the amount of 0.017-acre will be minimized through project design, such as by locating the proposed access driveway over the existing berm on the site thereby reducing impacts to sensitive biological resources. The proposed driveway would cross the main drainage course over the existing location of an earthen berm and its construction would use retaining walls to minimize impacts to the drainage course.

Impacts to non-wetland jurisdictional waters will be mitigated on-site through the creation of wetland and riparian habitat.

In addition, the project site is physically suitable for the design and siting of the proposed development and results in minimal disturbance of ESL resources. The proposed development has been designed to minimize impacts to sensitive biological resources, including wetlands on the site. Achievement of this goal resulted in the development portion of the project being concentrated on the hilltop area where previous disturbances had occurred. Impacts to ESL sensitive biological resources (e.g., southern maritime chaparral and sensitive species) on the site were largely avoided on the development portion of the project. Likewise, impacts to jurisdictional wetlands on the site have been avoided. Impacts to non-wetland waters/streambed (0.017 acre) have been minimized through project design. The placement of the proposed access road over the existing berm on the site reduces impacts to sensitive biological resources and avoids direct impacts to wetlands.

2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards. The Sorrento Pointe project will remove existing cellular facilities visible from public vantage points and construct one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements. Further, the project will provide protections to valuable sensitive habitat and steep slopes on the property outside of the area devoted to development. The new office buildings will incorporate and implement many features to conserve energy, such as: high efficiency heating, ventilation and air conditioning units, central energy management, and other conservation oriented features.

The proposed project will occupy the part of the site which has been disturbed by previous development activity and use of the site. The design of the proposed project will blend the new structures into the site by constructing a subterranean parking garage and a split level type of building design by integrating building and retaining walls so that the structures will be fit into the site rather than placed on top of the site. The building design will integrate into the site to make the buildings fit the site rather than grading the site to fit the buildings. This more sensitive design approach will minimize grading and alteration of natural landforms resulting in a development that is more compatible with the natural terrain

The geotechnical consultant of the applicant submitted the Update Geotechnical Study, Sorrento Pointe, San Diego, California, prepared by URS Corporation, dated December 21, 2007, 2nd revision dated April 28, 2010. The Geology Section of the Development Services Department has determined the geotechnical consultant has adequately addressed the site conditions and proposed development at this time for the purposes of environmental review and the proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces.

The proposed development will not result in undue risk from erosional forces in that all slopes manufactured for the support of the proposed project will be revegetated in accordance with the grading and landscaping regulations to prevent soil erosion and negative impacts to sensitive downstream water bodies.

The site will not experience undue risks from flood hazards in that the portion of the site to be developed with structures and provide occupancies by people is elevated above the 100 year floodplain by over 125 vertical feet. As such the proposed development will not experience undue risks from flooding.

To address fire hazards, the project has been conditioned to require a brush management plan and a brush management plan has been included in the conceptual plans submitted by the applicant and reviewed by city staff. The brush management plan has been reviewed by the Fire Department and Development Services Department staff. The conclusion reached by the Fire Chief and city staff subsequent to reviewing the existing conditions which contribute to risks from wildfires, the coastal influences upon weather, fuel load and fire, the slope and orientation of natural slopes with natural vegetation susceptible to wildfire is that the proposed brush management plan will create the situation whereby the inhabitants of the proposed buildings will not be exposed to undue risks from fire hazards. For additional information, see Planned Development Permit Finding No. 5 above.

3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. The Sorrento Pointe project will remove existing cellular facilities visible from public vantage points and construct one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements. Further, the project will provide protections to valuable sensitive habitat and steep slopes on the property outside of the area devoted to development. The new office buildings will incorporate and implement many features to conserve energy, such as: high efficiency heating, ventilation and air conditioning units, central energy management, and other conservation oriented features.

Development on the Sorrento Pointe project site has been sited and designed to prevent adverse impacts on adjacent environmentally sensitive lands by locating the majority of grading and building construction on areas that have been disturbed by earlier development activity and use of the site. The design of the proposed project will blend the new structures into the site by constructing a subterranean parking garage and a split level type of building design by integrating building and retaining walls so that the structures will be fit into the site rather than placed on top of the site. The building design will integrate into the site to make the buildings fit the site rather than grading the site to fit the buildings. This more sensitive design approach will minimize grading and alteration of natural landforms resulting in a development that is compatible with the natural terrain.

Further, all environmentally sensitive lands adjacent to the development on the site will be preserved through restrictions recorded on the title of the property to protect the sensitive habitat occurring on the site. The project will not impact any adjacent environmentally sensitive lands located off the project site. A mitigated negative declaration has been prepared for the proposed development and a mitigation monitoring and reporting program has been adopted that will reduce to a level of insignificance any potential negative impact upon environmentally sensitive lands. For additional information, see Planned Development Permit Finding No. 5 above.

4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan. The Sorrento Pointe project will remove existing cellular facilities visible from public vantage points and construct one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements. Further, the project will provide protections to valuable sensitive habitat and steep slopes on the property outside of the area devoted to development. The new office buildings will incorporate and implement many features to conserve energy, such as: high efficiency heating, ventilation and air conditioning units, central energy management, and other conservation oriented features.

The site is located outside the Multiple Habitat Planning Area of the City of San Diego's Multiple Species Conservation Program Subarea Plan. Although the project site is not within the Multiple Habitat Planning Area, the project design incorporates the Subarea Plan's Land Use Adjacency Guidelines. These measures address the potential indirect impacts from noise, barriers, lighting, toxic drainage and invasive plants and ensure that the project is consistent with the MSCP Subarea Plan. Furthermore, the preservation of sensitive habitat on site and conditions of approval that limit the potential for negative affects upon the preserved on-site habitat is consistent with the goals of the Multiple Species Conservation Program Subarea Plan.

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The Sorrento Pointe project will remove existing cellular facilities visible from public vantage points and construct one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements. Further, the project will provide protections to valuable sensitive habitat and steep slopes on the property outside of the area devoted to development. The new office buildings will incorporate and implement many features to conserve energy, such as: high efficiency heating, ventilation and air conditioning units, central energy management, and other conservation oriented features.

The project site is approximately less than one mile in a straight line from the Pacific Ocean. The project site is not located on or near the shoreline or a public beach. The hydrologic watershed which the proposed project site is located within, will not be adversely affected by the proposed project and by logical extension, the proposed development will not contribute to the erosion of public beaches or adversely impact the local shoreline sand supply.

The Sorrento Pointe project will develop in the least biologically sensitive and most disturbed portion of the site while preserving the most biologically sensitive area of the site as identified by submitted technical reports, including yet not limited to a Biological Resource Survey Report prepared by Recon Environmental, Inc. All storm water runoff generated on the project site will comply with all requirements of State Water Resources Control Board Order No. 2009-0009-DWQ as amended by 2010-0014-DWQ and the Municipal Storm Water Permit, Order No. R9-2007-0001 (NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan and a Monitoring Program Plan will be implemented concurrently with the commencement of grading

activities, and a Notice of Intent will be filed with the State Water Resources Control Board. Given the project's location, design of the project and requirements by the city, the project site will not contribute to the erosion of public beaches or adversely impact the local shoreline sand supply.

6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development. The Sorrento Pointe project will remove existing cellular facilities visible from public vantage points and construct one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements. Further, the project will provide protections to valuable sensitive habitat and steep slopes on the property outside of the area devoted to development. The new office buildings will incorporate and implement many features to conserve energy, such as: high efficiency heating, ventilation and air conditioning units, central energy management, and other conservation oriented features.

The proposed project will be developed on the least sensitive portions of the site. The project will comply with the relevant regulations applicable to the site, with the exception of the approved deviation, and has been designed to minimize impacts to biologically sensitive lands adjacent to the area of development on the site. To the greatest extent possible all development will be confined to areas of the site which have been and are already disturbed by the previous use of the site. The conditions of approval required for the project include mitigation to address potential impacts to Biological Resources, Cultural Resources and Noise and are directly related to the potential impacts which may be foreseen and a direct result of implementation of the project. The nature and extent of the proposed mitigation is commensurate with the impacts and includes on-site wetland creation along with the preservation of sensitive on-site upland habitats. These mitigation measures provide habitat values and connectivity with adjacent MHPA lands associated with the Los Peñasquitos Lagoon. As such these mitigation requirements are calculated to alleviate potential negative impacts resulting from the implementation of the project.

Coastal Development Permit - Section 126.0708

A.

1. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan. The Sorrento Pointe project will remove existing cellular facilities visible from public vantage points and construct one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements. Further, the project will provide protections to valuable sensitive habitat and steep slopes on the property outside of the area devoted to development. The new office buildings will incorporate and implement many features to conserve energy, such as: high

efficiency heating, ventilation and air conditioning units, central energy management, and other conservation oriented features.

The proposed project will be developed entirely within the private property and will not encroach upon any existing physical access way legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan in as much as there is no existing physical access way legally used by the public or any proposed public accessways located on the private property. The proposed development will be constructed completely within the boundaries of the private property. The Torrey Pines Community Plan identifies the location of all public view corridors within the community and does not identify any such corridor within or along Sorrento Valley Road, Carmel Mountain Road or Interstate 5. From the property location east of Sorrento Valley Road there are no public views to the ocean or other scenic coastal areas. As such the proposed project will have no effect upon any existing physical access way legally used by the public or any proposed public accessway and will have no effect upon public views to and along the ocean and other scenic coastal areas as identified in the Local Coastal Program land use plan.

The Sorrento Pointe project will remove existing cellular facilities visible from public vantage points. New cellular facilities will be integrated into the design of the buildings and will not be visible. Further, the project will provide protections to valuable sensitive habitat and steep slopes on the property outside of the area devoted to development.

2. The proposed coastal development will not adversely affect environmentally sensitive lands. The Sorrento Pointe project will remove existing cellular facilities visible from public vantage points and construct one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements. Further, the project will provide protections to valuable sensitive habitat and steep slopes on the property outside of the area devoted to development. The new office buildings will incorporate and implement many features to conserve energy, such as: high efficiency heating, ventilation and air conditioning units, central energy management, and other conservation oriented features.

The proposed project will be developed on the least sensitive portions of the site. The project will comply with the relevant regulations applicable to the site, with the exception of the approved deviation, and has been designed to minimize impacts to biologically sensitive lands adjacent to the area of development on the site. To the greatest extent possible all development will be confined to areas of the site which have been and are already disturbed by the previous use of the site. The conditions of approval required for the project include mitigation to address potential impacts to Biological Resources, Cultural Resources and Noise and are directly related to the potential impacts which may be probable and a result of implementation of the project. As such these mitigation requirements are calculated to alleviate potential negative impacts resulting from the implementation of the project. For additional information, see Planned Development Permit Finding No. 3 above and Site Development Permit Supplemental Findings B.1 through B.6 above.

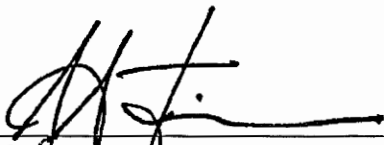
3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program. The Sorrento Pointe project will remove existing cellular facilities visible from public vantage points and construct one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements. Further, the project will provide protections to valuable sensitive habitat and steep slopes on the property outside of the area devoted to development. The new office buildings will incorporate and implement many features to conserve energy, such as: high efficiency heating, ventilation and air conditioning units, central energy management, and other conservation oriented features. For additional information, see Planned Development Permit Finding No. 1 above.

The proposed project is consistent with the Local Coastal Program land use plan and complies with all regulation of the certified implementation program. The certified Local Coastal Program land use plan consists of the Torrey Pines Community Plan. Planned Development Permit Finding No. 1 above discusses the projects' conformity with the Torrey Pines Community Plan. The Project also complies with all regulations of the certified Implementation Program, which includes relevant portions of the Land Development Code. Planned Development Permit Findings No. 3 above discusses the project's compliance with the regulations of the Land Development Code.

4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act. The Sorrento Pointe project will remove existing cellular facilities visible from public vantage points and construct one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements. Further, the project will provide protections to valuable sensitive habitat and steep slopes on the property outside of the area devoted to development. The new office buildings will incorporate and implement many features to conserve energy, such as: high efficiency heating, ventilation and air conditioning units, central energy management, and other conservation oriented features. The proposed development is not located between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone. Therefore the proposed development will have no impact on the public's ability to access coastal areas open to the public and will have no impact upon the public recreation policies of Chapter 3 of the California Coastal Act and in this way the proposed development is consistent with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Planned Development Permit No. 503978, Site Development Permit No. 503979 and Coastal Development Permit No. 503977 is hereby GRANTED by the Planning Commission to the

referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit Nos. 503978, 503979 and 503977, a copy of which is attached hereto and made a part hereof.

A handwritten signature in black ink, appearing to read 'J. Fisher', is written over a horizontal line.

John S. Fisher
Development Project Manager
Development Services

Adopted on: December 8, 2011

Job Order No. 23428829

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 23428829

PLANNED DEVELOPMENT PERMIT NO. 503978, SITE DEVELOPMENT PERMIT NO.
503979 AND COASTAL DEVELOPMENT PERMIT NO. 503977
SORRENTO POINTE PROJECT NO. 144031 - [MMRP]
PLANNING COMMISSION

This Planned Development Permit No. 503978, Site Development Permit No. 503979 and Coastal Development Permit No. 503977 is granted by the Planning Commission of the City of San Diego to SORRENTO VALLEY HOLDINGS I, L.P., a California limited partnership and SORRENTO VALLEY HOLDINGS II, L.P., a California limited partnership, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0604, 126.0504 and 126.0708. The 14.35 acre site is located at 11965 and 12025 Sorrento Valley Road in the AR-1-2 and IL-3-1 Zones of the Torrey Pines Community Plan area. The project site is legally described as Parcel 2 of Parcel Map No. 18158 filed in the Office of the County Recorder of San Diego County on December 4, 1998; Pueblo Lot 1326 of the Pueblo Lands of San Diego according to Miscellaneous Map No. 36 filed in the Office of the County Recorder of San Diego County; Lot 7 of Section 25, Township 14 South, Range 4 West, San Bernardino Meridian; Lot 4 of Section 30, Township 14 South, Range 3 West, San Bernardino Meridian; All in the City of San Diego, County of San Diego, State of California.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated December 8, 2011, on file in the Development Services Department.

The project shall include:

- a. Construction of one two-story 33,368 square foot office building and one three-story 58,970 square foot office building with a courtyard connection between the two

buildings, subterranean and surface parking, landscaping, relocation of existing cellular antenna facilities to within the new buildings and other site improvements;

- b. One deviation is approved: 1) from Land Development Code section 142.0340(e) to allow a maximum twenty-four foot high retaining wall and other retaining walls measuring between twelve feet to sixteen feet high where a maximum wall height of twelve feet is allowed;
- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking; and
- e. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action, or following all appeals.
3. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
4. Prior to issuance of any construction permit, a fee shall be deposited with the Development Services Department for the Los Peñasquitos Watershed Restoration and Enhancement Program. The enhancement fee shall be computed on the basis of site grading at a rate of \$0.005 per square foot for all areas graded, with an additional rate of \$0.03 per square foot for all impervious

surfaces created by the development. The enhancement fee shall be computed by the Owner/Permittee and verified by the Development Services Department.

5. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.

6. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

7. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

8. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

9. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the federal Endangered Species Act [ESA] and by the California Department of Fish and Game [CDFG] pursuant to California Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Owner/Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Owner/Permittee by the City: (1) to grant Owner/Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Owner/Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Owner/Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Owner/Permittee of mitigation obligations required by this Permit, in accordance with Section 17.1D of the IA.

10. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

11. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

12. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

13. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

14. This Permit may be developed in phases.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

15. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

16. The mitigation measures specified in the MMRP, and outlined in Mitigated Negative Declaration No. 144031 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

17. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration No. 144031 to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures as described in the MMRP shall be implemented for the following issue areas:

Biological Resources
Historical Resources (Archaeology)
Paleontological Resources
Noise

18. Prior to issuance of any construction permit, the Owner/Permittee shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

ENGINEERING REQUIREMENTS:

19. Prior to the issuance of a building permit, the Owner/Permittee shall obtain a grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

20. This project proposes to export 15,000 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow the onsite processing and sale of the export material unless the underlying zone allows a construction and demolition debris recycling facility with an approved Neighborhood Use Permit or Conditional Use Permit per LDC Section 141.0620(i).

21. The drainage system proposed for this development and outside of the public right-of-way is private, shall be privately maintained and subject to approval by the City Engineer.

22. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 2009-009 DWQ and the Municipal Storm Water Permit, Order No. 2009-009(NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent (NOI) shall be filed with the SWRCB.

23. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of

San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 2009-009 DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in SWRCB Order No. 2009-009 DWQ.

24. Prior to the issuance of any construction permits, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.

25. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications, satisfactory to the City Engineer.

26. Prior to the issuance of any permits, the Owner/Permittee shall obtain a letter of permission from the southerly property owner for the drainage facilities encroaching into their properties, satisfactory to the City Engineer.

LANDSCAPE REQUIREMENTS:

27. Prior to issuance of any engineering permits for grading, construction documents for the revegetation and hydroseeding of all disturbed land shall be submitted in accordance with the Landscape Standards, to the satisfaction of the Development Services Department. All plans shall be in substantial conformance with Exhibit "A."

28. In the event that a foundation only permit is requested by the Owner/Permittee, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A." These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as 'landscaping area.'

29. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards shall be submitted to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A." Construction plans shall take into account a forty square foot area around each tree which is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)(5).

30. Prior to issuance of any Certificate of Occupancy, the Owner/Permittee shall install all required landscape and obtain all required landscape inspections.

31. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

32. The Owner/Permittee shall maintain all landscape improvements shown on the approved plans consistent with the Landscape Standards.

33. If any required landscape, including existing or new plantings, hardscape, landscape features, et cetera, indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Certificate of Occupancy.

34. The Owner/Permittee shall remove identified invasive species on the premises, which consist of pampas grass (*Cortaderia selloana*), pickleweed (*Carpobrotus edulis* and *C. chilensis*), myoporum tree (*Myoporum laetum*) and African fountain grass (*Pennisetum setaceum*), from the premises per Municipal Code Section 142.045(b)(2). Removal of invasive species which are located outside the limits of development shall be accomplished using hand methods only.

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

35. The Owner/Permittee shall implement a modified Brush Management Program in accordance with provisions of LDC Sec. 142.0412(j), as documented on Exhibit "A," to include an expanded Zone One of 79 feet with no Zone Two along west and south sides of Buildings 1 and 2. In addition, one of the following options shall be implemented to complete the brush management program along the north-east side of Building 1:

- a) The north-east side of Building 1 shall have a Zone One ranging from 35 feet to 50 feet in width with a corresponding Zone Two ranging from 65 feet to 42 feet in width and include off-site portions of the I-5 Caltrans right-of-way. A seasonal Encroachment Permit shall be obtained from Caltrans for the purposes of implementing Zone 2 brush management; or
- b) The north-east side of Building 1 shall have a Zone One ranging from 35 feet to 50 feet in width. In lieu of providing a corresponding Zone Two, the Owner/Permittee shall fire-rate the north-east side of Building 1 to consist of minimum one-hour construction with 20-minute protected openings; or
- c) The Owner/Permittee may implement measures set forth in a Fire Fuel Load Model Report prepared by a certified Fire Behavior Analyst and deemed acceptable to the Fire Chief. Protective measures shall be consistent with analyses and mitigation measures set forth in the Environmental Document.

36. Prior to issuance of any engineering permits for grading, landscape construction documents required for the engineering permit shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit "A."

37. Prior to issuance of any Building Permits, a complete set of Brush Management Plans shall be submitted for approval to the Development Services Department. The construction documents shall be in substantial conformance with Exhibit "A," one of the options enumerated in condition 35 above, and shall comply with the Landscape Standards and Brush management Regulations as set forth under Land Development Code Section 142.0412.

38. Within Zone One, combustible accessory structures, including, but not limited to decks, trellises, gazebos, et cetera, shall not be permitted while non-combustible and/or one-hour fire-rated accessory structures may be approved within the designated Zone One area subject to the approval of the Fire Marshal.

39. The following note shall be provided on the Brush Management Construction Documents: "It shall be the responsibility of the Owner/Permittee to schedule a pre-construction meeting on site with the contractor and the Development Services Department to discuss and outline the implementation of the Brush Management Program."

40. In Zone One, plant material shall be selected to visually blend with the existing hillside vegetation. No invasive plant material shall be permitted as jointly determined by the Landscape and MSCP section staff.

41. Prior to final inspection and issuance of any Certificate of Occupancy, the approved Brush Management Program shall be implemented.

42. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Standards.

PLANNING/DESIGN REQUIREMENTS:

43. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

44. Prior to the issuance of any construction permits, the Owner/Permittee shall execute and record a Covenant of Easement which ensures preservation of the Environmentally Sensitive Lands that are outside the allowable development area on the premises as shown on Exhibit "A" for Sensitive Biological Resources and Steep Hillside, in accordance with SDMC section 143.0152. The Covenant of Easement shall include a legal description and an illustration of the premises showing the development area and the Environmentally Sensitive Lands as shown on Exhibit "A."

45. All signs associated with this development shall be consistent with sign criteria established by the City-wide sign regulations.

46. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

47. Prior to the issuance of any building permits, complete outdoor lighting information shall be submitted by the Owner/Permittee to the Development Services Department for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to address all areas where lighting is

proposed within the property and to extend a minimum of fifty feet beyond the limits of work, as shown on the Exhibit "A," construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, model number, visors, prisms, lenses and reflectors to indicate how outdoor lighting will not exceed 14 footcandles anywhere on the site, a lighting plan locating each fixture in plan view and legend, and construction details indicating light standards will not exceed fourteen feet in height. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

48. Prior to the issuance of any occupancy permit, a night inspection shall be required to verify compliance of the outdoor lighting system. No light shall be directed outside the limits of work as shown on Exhibit "A." Light levels along the perimeter of the limits of work shall be measured no higher than three footcandles. Light levels throughout the development shall be the least practical level necessary to effectively illuminate the site for safety. Sky glow or light halo shall be reduced to the greatest extent practical and in no case shall light levels be allowed to exceed fourteen footcandles anywhere within the site. The Owner/Permittee, or authorized representative, shall provide a luminance meter to measure light levels as required establishing conformance with the standards stated herein during the night inspection. Night inspections may require additional fees as determined by the Development Services Department at the time of inspection.

49. Prior to the issuance of any engineering permit for grading, the Owner/Permittee shall obtain all necessary federal and state permits for development in proximity to wetlands and non-wetland jurisdictional waters. The Owner/Permittee shall provide evidence of all federal and state permits, to the satisfaction of the Development Services Department.

50. Prior to the issuance of any engineering permit for grading and should the federal and state agencies involved in permitting development in proximity to wetlands and non-wetland jurisdictional waters require a greater wetland buffer than is shown on Exhibit "A," the Owner/Permittee shall be required to process and receive approval for a Substantial Conformance Review. Should a Substantial Conformance Review for said changes be denied, an amendment to this permit shall be required.

WIRELESS COMMUNICATION FACILITIES REQUIREMENTS:

51. Prior to any wireless communication facilities being located in Sorrento Pointe buildings, a Limited Use application for each carrier/Wireless Communication Facility shall be submitted to the Development Services Department Telecom Review section for review and approval.

52. Prior to activation of any Wireless Facilities, a Telecom Planning inspection shall be required to verify each Wireless Communication facility has been installed per approved plans.

53. The building design shall make provisions for and be constructed so that all future wireless communication antennas will be concealed behind radio-frequency transparent materials painted, textured, and designed to match the building. Seams between radio-frequency transparent and non-radio-frequency transparent building materials shall be minimized.

Antennas and associated equipment shall not extend beyond the screen wall and shall not be visible.

54. All cables associated with wireless communication antennas shall be routed internally within the building and shall not be visible.

55. Prior to building permit issuance, construction documents shall be submitted to the Development Services Department Telecom Section for review and approval.

TRANSPORTATION REQUIREMENTS:

56. A minimum of 305 automobile spaces (including 7 standard accessible spaces, and 1 van accessible space), 28 carpool spaces, 6 motorcycle spaces, 3 bicycle spaces with 3 rack(s) and 1 loading zone are required by the Land Development Code as shown on the Exhibit "A." All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Director.

PUBLIC UTILITY REQUIREMENTS:

57. The Owner/Permittee is required to install all facilities, as required by the accepted sewer study, necessary to serve this development. All onsite sewer facilities shall be private.

58. The Owner/Permittee shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

59. All proposed private sewer facilities located within a single lot are to be designed to meet the requirements of the California Uniform Plumbing Code and will be reviewed as part of the building permit plan check.

60. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any sewer facilities.

61. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of twelve inch public water mains within an existing water easement connecting to the existing water twelve inch main as shown on approved Exhibit "A," in a manner satisfactory to the Director of Public Utilities and the City Engineer.

62. The Owner/Permittee shall grant adequate water easements, including vehicular access to each appurtenance; meters, blow offs, valves, et cetera, for all public water facilities not located within fully improved public rights of way, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

63. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall install fire hydrants at locations satisfactory to the Fire Marshal, the Director of Public Utilities and the City Engineer. All on-site fire hydrants shall be private.

64. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of any new water service(s) outside of any driveway, and the disconnection at the water main of the existing unused water service, if any, adjacent to the project site, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

65. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s), on each water service; domestic, fire and irrigation, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

66. Prior to the issuance of any certificates of occupancy, all public water facilities shall be complete and operational in a manner satisfactory to the Director of Public Utilities and the City Engineer.

67. The Owner/Permittee shall design and construct all proposed public water facilities in accordance with established criteria in the current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices.

GEOLOGY REQUIREMENTS:

68. The Owner/Permittee shall submit a geotechnical investigation report or update letter that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of Development Services prior to the issuance of any construction permit.

69. The Owner/Permittee shall submit an as-graded geotechnical report prepared in accordance with the City's "Guidelines for Geotechnical Reports" following completion of the grading. The as-graded geotechnical report shall be reviewed for adequacy by the Geology Section of Development Services prior to exoneration of the bond and grading permit close-out.

CALTRANS REQUIREMENTS:

70. Prior to issuance of any grading permit, the Owner/Permittee shall obtain approval from Caltrans to assure no adverse impact to the Caltrans right-of-way. Plans shall be submitted to Caltrans, via the Development Services Department, for review and approval.

71. Prior to issuance of any grading permit, the Owner/Permittee shall coordinate with Caltrans to relocate the existing Caltrans fence to the property line adjacent to the Caltrans right-of-way.

72. Prior to the issuance of any grading permit, the Owner/Permittee shall cooperate with Caltrans in processing a vacation of a portion of the drainage easement. A gate shall be incorporated into the relocated fence along the property line for maintenance access for the portion of the drainage easement that Caltrans will retain.

INFORMATION ONLY:

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission of the City of San Diego on December 8, 2011 by Resolution No. [Approved Resolution Number].

Permit Type/PTS Approval No.: PDP No. 503978,
SDP No. 503979, CDP No. 503977

Date of Approval: December 8, 2011

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

John S. Fisher
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

SORRENTO VALLEY HOLDINGS I, L.P.,
a California limited partnership
Owner/Permittee

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

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By _____

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CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



**APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT**

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Commissioner Esther Sanchez
Mailing Address: Oceanside City Council
City of Oceanside
300 North Coast Hwy
Oceanside, CA 92054
Phone Number: (760) 435-0971

SECTION II. Decision Being Appealed

1. Name of local/port government: City of San Diego
2. Brief description of development being appealed: Construction of one two-story, 33,368 sq. ft. office building and one three story, 58,970 sq. ft. office building, both with a 30 ft. maximum height, on an existing 14.35 acre hilltop property, comprised of two separate legal lots zoned as IL-3-I Industrial and AR-1-2 Open Space.
3. Development's location (street address, assessor's parcel no., cross street, etc:)
11965 and 12025 Sorrento Valley Rd., Torrey Pines, San Diego, San Diego County
4. Description of decision being appealed:
a. Approval; no special conditions: ☐ b. Approval with special conditions: ☒
c. Denial: ☐

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

RECEIVED

JAN 13 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

EXHIBIT NO. 6

APPLICATION NO.

A-6-NOC-12-005

Appeal Forms

Page 1 of 19

California Coastal Commission

Page 2

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-NOC-12-005

DATE FILED: 1/13/12

DISTRICT: San Diego

5. Decision being appealed was made by (check one):

a. ☐ Planning Director/Zoning
Administrator

c. ☒ Planning Commission

b. ☐ City Council/Board of
Supervisors

d. ☐ Other

Date of local government's decision: 12/08/12

Local government's file number (if any): 144031

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Sorrento Valley Holdings I, L.P., and II, L.P.

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.



SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment "A" dated 1/13/12

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature on file

Signature of Appellant(s) or Authorized Agent
Date: 1/13/2012

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)
Date: _____

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Commissioner Mark W. Stone
Mailing Address: Board of Supervisors
701 Ocean Street, Room 500
Santa Cruz, CA 95060
Phone Number: (831) 454-2200

SECTION II. Decision Being Appealed

1. Name of local/port government: City of San Diego
2. Brief description of development being appealed: Construction of one two-story, 33,368 sq. ft. office building and one three story, 58,970 sq. ft. office building, both with a 30 ft. maximum height, on an existing 14.35 acre hilltop property, comprised of two separate legal lots zoned as IL-3-I Industrial and AR-1-2 Open Space.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
11965 and 12025 Sorrento Valley Rd., Torrey Pines, San Diego, San Diego County
4. Description of decision being appealed:
a. Approval; no special conditions: ☐ b. Approval with special conditions: ☒
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RECEIVED

JAN 13 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Page 2

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-NOC-12-005

DATE FILED: 1/13/12

DISTRICT: San Diego

5. Decision being appealed was made by (check one):

a. ☐ Planning Director/Zoning
Administrator

c. ☒ Planning Commission

b. ☐ City Council/Board of
Supervisors

d. ☐ Other

Date of local government's decision: 12/08/12

Local government's file number (if any): 144031

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Name and mailing address of permit applicant:

Sorrento Valley Holdings I, L.P., and II, L.P.

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.



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State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment "A" dated 1/13/12

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

Signature on file

Date:

Section VI. Agent Authorization

to act as my/our representative and to bind me/us in all matters concerning this appeal.

Date:

Attachment A
Sorrento Pointe Appeal
11965 and 12025 Sorrento Valley Rd., San Diego
January 13, 2012

The project as approved and conditioned by the City, would allow for construction of one two-story, 33,368 sq. ft. office building and one three story, 58,970 sq. ft. office building, on an existing 14.35 acre hilltop property, comprised of two separate legal lots zoned as IL-3-I Industrial and AR-1-2 Open Space. The site is located at 11965 and 12025 Sorrento Valley Rd. directly adjacent to and west of Interstate 5, just north of Carmel Mountain Road in the Torrey Pines Community of the City of San Diego.

The subject site is located on an elevated hilltop immediately adjacent to the southbound lanes of the I-5 to the east and upland from the Los Peñasquitos Lagoon to the west. It is separated from the immediate Los Peñasquitos lagoon habitats by Sorrento Valley Rd., which exists as a paved pedestrian/bike trail and is closed to vehicular traffic. The subject site is the last remaining piece of undeveloped land separating existing industrial/office development located immediately to the south from the undeveloped land and lagoon habitats to the west and north. The subject site is outside of designated "preserve" area, but within the Multi-Species Conservation Plan ("MSCP") northern subarea boundary.

The existing property is comprised of 8.31 acres of Southern Maritime Chaparral habitat (SMC), .92 acres of previously hydroseeded Coastal Sage Scrub habitat (CSS), 3.01 acres of non-native grassland, 1.65 acres of disturbed area, and small amounts of mule fat scrub, southern willow scrub, eucalyptus woodland, and ornamental plantings. Two existing cell phone facilities and a large billboard sign are currently present on the site. Steep slopes in excess of 25% grade occur on much of the site. However, the majority of the proposed development will take place on the flatter elevated portion of the site that consists of some previously disturbed area as well as the existing cell phone tower operations.

The project will result in direct impacts to .74 acres of Southern Maritime Chaparral habitat, .28 acres of hydroseeded Coastal Sage Scrub, and .004 acres of an existing drainage channel that the Mitigated Negative Declaration refers to as an "unvegetated non-wetland habitat." The proposed project will involve approximately 25,000 cubic yards of cut grading and require manufactured slopes and 12'-24' high retaining walls on parts of the property adjacent to the I-5 to accommodate the proposed office structures and associated underground parking garage area. A total of 4.91 acres of the property would be graded as part of the project.

The project as approved by the City is inconsistent with the certified LCP (Torrey Pines Community Plan Use Plan and Land Development Code) as it relates to the requirements for protection of environmentally sensitive habitats, steep hillside and visual resources, as well as the City of San Diego's MSCP Subarea Plan and Biology guidelines as they relate

to development adjacent to sensitive habitat areas and habitat impact mitigation requirements, respectively. Specific issues include:

(1) Lack of Information Regarding Proposed Habitat Impacts. It is unclear from the submitted building plans and associated materials where the direct impacts to SMC habitat will occur on the site in relation to the proposed buildings and development. As such, it is difficult to determine why the subject habitat impacts are necessary to accommodate the proposed development and why they cannot be minimized or avoided.

(2) Upland Habitat Mitigation. The City's CDP conditions of approval state that the applicant must mitigate for the .74 acres of Southern Maritime Chaparral habitat impacts associated with the project by either 1) preserving 9.88 acres of existing on-site Southern Maritime Chaparral through a conservation easement; 2) through a monetary contribution for 2.5 acres of habitat to the City of San Diego habitat acquisition fund; or 3) through other off-site mitigation at the ratios stipulated in the City's Environmentally Sensitive Lands Regulations. The City indicated in its CDP that the applicant has chosen to record a conservation easement over the 9.88 acres of existing on-site SMC habitat, designated as environmentally sensitive habitat in the CCC certified Habitat Resource maps, as the mitigation for upland impacts. The submitted building plans for the proposed project indicate the limits and boundary line of this conservation easement area in relation to the proposed building site. In addition, the City's CDP requires the applicant to mitigate for the impacts to the hydroseeded Coastal Sage Scrub, located within a Caltrans Right of Way, through restoration of the impact area at a 1:1 ratio, consistent with past Commission approved mitigation requirements for similar types of hydroseeded habitat areas. The adequacy of the required mitigation is subject to question as to its consistency with the certified LCP.

The language in the City of San Diego Biological Guidelines - Mitigation Methods, which applies to this property, specifically states that mitigation methods for areas preserved on-site but outside of the MHPA (such as the proposed on-site conservation easement area), will only generally be considered acceptable as mitigation if connected to the MHPA by an area more than 400 feet wide for greater than 500 feet long. The regulations state that areas of lesser width and length would be considered isolated, and would not count as mitigation (unless the finding can be made that small endemic habitat communities that are able to maintain viability in isolation, such as vernal pools, exist on site). The City's Multiple Species Conservation Subarea Plan guidelines for mitigation methods outside of the MHPA state:

*(2) **Outside MHPA:** The on-site preservation of lands outside the MHPA may be considered acceptable as mitigation provided they have long-term biological value. Long-term biological value should be assessed in terms of connectivity to larger areas of planned open space, and any potential current or future indirect impacts associated with the urban interface. As indicated above, areas containing brush management Zone 2 will be considered impact neutral (not considered an impact and not considered acceptable as a mitigation area).*

(i) Connectivity: Isolated habitat patches have been shown to lack the diversity and resilience of connected systems (Noss 1983, Soule et al. 1988, Temple 1983, Wright and Hubbell 1983). In most cases, the species first to extirpate (disappear) from these isolated areas are rare species that do not adapt well to human influenced environments. Unfortunately, these species are those targeted for conservation by the MSCP.

Areas preserved on-site, but outside of the MHPA, will only generally be considered to be acceptable as mitigation if connected to the MHPA. As a general guideline, areas completely surrounded by development and areas connected by native vegetation of less than 400 feet wide for greater than 500 feet long will be considered isolated, and will not count as mitigation [...]

Site-specific studies with field observations, which incorporate the best available scientific information and methods, would be necessary to provide a basis for any modification to these standards at the project level. Other factors such as topography (steep slopes), major road systems or other large public facility, and habitat patch size will also be considered in assessing potential isolation of a site.

Isolated areas may, on a case-by-case basis, be considered for use as mitigation where it can be reasonably demonstrated that the resource can persist in isolation (e.g. narrow endemics species or unique habitats such as vernal pools) or act as "stepping stones" for wildlife movement between portions of the MHPA.

(ii) Urban Interface: [...]

Areas outside of MHPA with significant edge effects, as determined by site specific analysis, will generally not be considered acceptable as mitigation.

Also, the Resource Management and Open Space Element, Industrial Element and Appendix E of the Torrey Pines Community Plan include the following provisions:

Resource Management and Open Space Element

GOAL 5. Preserve, enhance and restore all natural open space and sensitive resource areas, including Los Peñasquitos Lagoon and associated uplands, Torrey Pines State Park and Reserve Extension areas with its distinctive sandstone bluffs and red rock, Crest Canyon, San Dieguito Lagoon and River Valley, the Carroll Canyon Wetland/Wildlife Corridor through Sorrento Valley, [...]

and all selected corridors providing linkage between these areas.

POLICY 1. Land uses adjacent to environmentally sensitive habitats shall not negatively impact those areas.

POLICY 2. Development impacts to rare, threatened, endangered, or candidate species shall be minimized or eliminated.

[...]

POLICY 6. New development adjacent to and impacting biologically sensitive areas shall be responsible for the restoration and enhancement of that area. In particular, when mitigation areas are needed for public projects, the disturbed areas in Crest Canyon should be revegetated with Coastal Mixed Chaparral and Torrey Pines.

[...]

POLICY 13. Conditions of approval for all development that impacts adjacent open space areas should include restoration and enhancement measures for that particular area.

Industrial Element

POLICY 3. Development proposed adjacent to environmentally sensitive resources shall not adversely impact those resources, and shall, where feasible, contribute to the enhancement of the resource.

Appendix E: Local Coastal Program Policies

Hillsides:

In the case of those landforms that consist of slopes of 25 percent and over which have been identified as possessing environmentally sensitive habitats or significant scenic amenities or hazards to development (including major undeveloped sites with high erodibility characteristics), the following policy shall apply:

1. Slopes of 25 percent grade and over shall be preserved in their natural state, provided a minimal encroachment into the steep slope areas over 25 percent may be permitted as set forth in the following table:

25 PERCENT SLOPE ENCROACHMENT ALLOWANCE	Maximum Encroachment Allowance
<i>Percentage of Parcel in Slopes of 25 Percent and Over</i>	<i>as Percentage of Area in Slopes of 25 Percent and Over</i>
75% or less	10%
80%	12%
85%	14%
90%	16%
95%	18%
100%	20%

For the purposes of this ordinance, encroachment shall be defined as any area of twenty-five percent (25%) or greater slope in which the natural landform is altered by grading, is rendered incapable of supporting vegetation due to the displacement required for the building, accessory structures or paving, or is cleared of vegetation[...].

The subject conservation easement area is far less than 400 feet wide by 500 feet long and is separated from MHPA lands by the existing Sorrento Valley Road. Additionally, there are no conditions on the City's CDP that require restoration or enhancement to the SMC habitat within the proposed conservation easement. The subject site contains slopes

in excess of 25%; however, it is unclear if additional mitigation would be required for encroachment into steep slopes as it is not indicated on the building plans or in the City's CDP where the steep slopes are on the site in specific relation to the boundaries of the proposed development limits. The above cited provisions indicate that suitable mitigation for the subject SMC habitat impacts would consist of restoration and enhancement of biologically sensitive habitat areas on site. They also indicate that the conservation of a seemingly isolated piece of on-site SMC habitat would not qualify as acceptable mitigation pursuant to the City's Biological Guidelines for habitat impacts and mitigation on lands outside of the MHPA. The City did not provide findings in the CDP or in the associated Mitigated Negative Declaration for the project documenting that the proposed conservation easement area has adequate connectivity to MHPA lands such that it would not be considered isolated habitat.

Overall, the City's CDP permit for the proposed development contains no conditions assuring adequate mitigation for the .74 acres of direct impacts to SMC habitat is provided as part of the proposed project, as stipulated by the Torrey Pines Community Plan and the City's Biological Guidelines and Environmentally Sensitive Lands regulations. In addition, and most importantly, if the on-site habitat is deemed to be environmentally sensitive habitat area ("ESHA") under the Coastal Act, impacts to such habitat for industrial development would be questionable. Therefore, a habitat determination remains necessary and a demonstration that all alternatives have been evaluated to avoid impacts to sensitive habitat.

There will also be .004 acres of impacts to an existing drainage channel that is designated in the MND as an unvegetated non-wetland. As such, the standard mitigation requirements for wetland impacts were not applied to this portion of the project impact.

3) Habitat Buffers. A 100 ft. minimum wetland buffer is designated on the building plans to separate the proposed buildings from the existing wetland habitat in the Los Penasquitos lagoon; however, it is unclear what the buffer area will be between the proposed development and the existing wetlands on site. There are a combined .25 acres of on-site Southern Willow Scrub and Mule Fat Scrub designated as wetlands in the MND that will not be directly impacted as part of the proposed project, but which are located near the limits of the proposed building envelope. It is unclear from the plans and the other project materials what the wetland buffer area will be between these on-site wetlands and the proposed development. No upland habitat buffers are mentioned in the submitted project materials or indicated on the buildings plans, raising concerns that no buffer is being proposed or required by the City to separate biological resources on site from the subject industrial development and help prevent against edge effects.

(4) Brush Management. Brush management for development adjacent to MHPA is typically required to include a Zone 1 and Zone 2, unless a low fire hazard severity rating is documented, in which case, no Zone 2 is mandated. The building plans for the proposed development show a small Zone 2 brush management on the eastern portion of the site adjacent to the I-5, but no Zone 2 brush management zone surrounding the development on the remainder of the site. Additionally, the proposed Zone 2 brush

management zone is entirely within the designated CSS habitat area. The building plans state that no Zone 2 is required on the remainder of the site, even where Zone 1 directly abuts existing SMC habitat area that is shown within the proposed easement area. The City has included no findings stating that there is a low fire hazard severity on parts of the site adjacent to SMC or provided any explanation as to why Zone 2 is only proposed on part of the site.

The Resource Management and Open Space Element of the Torrey Pines Community Plan guidelines, which apply to development on the subject site, state:

Brush Management

Because of the abundance of natural open space areas including canyons rich with native vegetation, special brush management consideration and enforcement should be provided within the Torrey Pines planning area.

Currently all development within Torrey Pines must comply with the Uniform Fire Code and Section 6 (Brush Management) of the City of San Diego's Landscape Technical Manual. In summary, these codes state that brush or native vegetative growth on steep slopes must be controlled to protect existing and proposed structures from fire hazards.

[...].

In order to provide an effective fuel modification zone surrounding the proposed building, consistent with the brush management requirements in the applicable LUP, the CSS habitat area on the east side of the site and potentially the SMC chaparral on the western and northern portions of the site will be impacted. As such, the absence of a Brush Management Zone 2 on the majority of the site adjacent to the SMC habitat/proposed conservation easement area could potentially result in further impacts to biologically sensitive habitat on-site that is not mitigated for through the City's current CDP for the subject project. In summary, the City's approval of the proposed development is inconsistent with the policies of the certified LUP relating to protection of sensitive biological resources on site through adequate brush management.

(5) Visual Impacts. The subject site is a prominent and undeveloped upland landform adjacent to the Los Penasquitos Lagoon and any development on the site could potentially impact the existing public viewshed in the area. The development would be highly visible from the public Marsh Trail in the Torrey Pines State Reserve as well as the adjacent public pedestrian/biking trail that borders the western portion of the property (Sorrento Valley Rd.). The project site is also visible from areas of the Los Penasquitos Lagoon, as well as Coast Highway 101 and Carmel Valley Rd, which are both scenic coastal roadways. The proposed development consists of two buildings, which have different elevations depending on which direction the development would be viewed from. The approximate elevations from finished grade, as documented in the submitted building plan, are as follows:

WEST ELEVATION

Building 1: 40'

Building 2: 45'
NORTH ELEVATION

Building 1: 47'

Building 2 is not visible from this direction

EAST ELEVATION

Building 1: 50'

Building 2: 45'

The applicant has indicated that they will use a visually compatible color palette for the structures and utilize native Torrey Pines and Nuttall's scrub oak along the perimeter of the building to screen the development. However, it is unclear what, if any, alternatives or alternate building designs were considered that could minimize potential visual impacts from the two-story and three-story buildings.

Industrial Element

Goal 8. Restrict industrial development on steep slopes, wetlands, riparian habitats, and on archaeological sites, and further encroachment into Los Peñasquitos Lagoon and the Carroll Canyon Creek Corridor, and design industrial projects to blend into adjacent open space areas.

Appendix E: Local Coastal Program Policies

Hillsides:

Within the Coastal Zone, landforms that consist of slopes of 25 percent grade and over that have not been identified as possessing environmentally sensitive habitats, significant scenic amenities or hazards to developments, may be developed provided the applicant can demonstrate all of the following:

1. To protect the scenic and visual qualities of the site as seen from public vantage points, recreational areas, and roads or highways, the proposed development shall minimize the alteration of natural landforms and create only new slopes that are topographically compatible with natural landforms

Visual Resources:

The State Coastal Act states that the scenic and visual qualities of the coastal areas shall be considered and protected as a resource of public importance. The Torrey Pines community planning area possesses many highly scenic open space areas and dramatic vistas. Torrey Pines also has a number of road segments that have scenic qualities worthy of formal recognition and protection. This Plan contains numerous recommendations, policies and implementing actions focusing on the preservation of these visual resources including:

1. Significant scenic resource areas including San Dieguito River Regional Park, Crest Canyon, Torrey Pines State Reserve Extension, Los Peñasquitos Lagoon, and the Carroll Canyon Creek Corridor have been designated and rezoned to open space.

2. Three road segments possessing dramatic vistas are recommended for a Scenic Route designation including North Torrey Pines Road, Carmel Valley Road, and Sorrento Valley Road.

[...]

- 11. The Plan recommends the preservation of Torrey Pines trees in private as well as public areas, and encourages the planting of Torrey Pines trees in roadways and other landscaped areas. Should Torrey Pines trees require removal, relocation or replacement of the trees shall occur whenever feasible.*
- 12. New residential, commercial, and industrial development shall provide landscape buffers to screen views of the buildings from designated scenic roadways of the surrounding area.*

The subject site is situated to the northwest of the existing line of development in the area and is bordered on the north and west mostly by open space and upland habitat, effectively acting as a physical and visual buffer between sensitive upland and lagoon habitats and industrial development in the area. Additionally, the subject site is elevated above the developed portions of Sorrento Valley to the south and Interstate 5 to the east and, as such, while the proposed structures might be similar in bulk and design as other development in the area, the proposed development will be far more visually obtrusive due to the existing height of the subject site. Due to the existing topography and visual prominence of the subject site, the proposed development would result in impacts to the scenic visual resources of the area that have not been minimized to the degree that they can be found consistent with the provisions in the Torrey Pines Community Plan. There is no information in the City's CDP findings or in the MND to indicate that alternative building designs and configurations were considered that could potentially reduce the visibility of development on the subject site.

(6). Drainage.

The City of San Diego's MSCP Subarea Plan lists water drainage as a major issue affecting the Los Peñasquitos Lagoon. The encroachment of development nearby and increase in impervious surfaces has resulted in increased runoff, sedimentation, and pollution in the Los Peñasquitos Lagoon.

The Torrey Pines Community Plan includes the following policies:

Resource Management and Open Space Element

POLICY 12. Maintain regulations that prohibit contaminated runoff from reaching any of the sensitive open space areas designated in this Plan.

Carroll Canyon Wetland/Wildlife Corridor

This open space corridor runs the length of Sorrento Valley and provides an important linkage between Carroll Canyon and Los Peñasquitos Lagoon. The majority of this corridor is privately owned and consists primarily of wetlands containing riparian vegetation. Some portions of this corridor have been channelized and most of it has experienced urban encroachment. However, this area continues to support riparian habitat and provides a significant linkage for many plant and animal species between two significant open space resource areas.

- 1. All new development proposed adjacent to this open space corridor shall incorporate the urban design guidelines located within the Industrial Element as appropriate.*

2. New development proposed adjacent to this open space corridor shall not contribute to increased sediment loading of the wetland, disturbance of its habitat values, or otherwise impair the functional capacity of the wetland.

3. New development proposed adjacent to and impacting this open space corridor shall enhance and improve the habitat value of this system.

The project has been proposed and conditioned to incorporate on-site storm water detention measures as well as storm water and runoff management devices that will reduce the amount of runoff and sediment that reaches the lagoon. Although the City has conditioned the project to require storm water management and water pollution prevention measures be incorporated, there is no monitoring condition on the City CDP that will ensure the effectiveness and long term management of the proposed water and drainage systems. Given the topography of the site and its direct proximity to Los Peñasquitos Lagoon and its environmentally sensitive habitats, the City's CDP for the permit has not been adequately conditioned to ensure consistency with the policies of the Torrey Pines Community Plan that seek to prevent further pollution or sedimentation of the Los Peñasquitos Lagoon.

(7) Avian Collisions. There exists the potential for avian collisions along portions of the two buildings that are oriented towards the open space area and Los Peñasquitos Lagoon. The MND for the project addresses the lighting standards mitigation measure provided under the MSCP subarea plan land use adjacency guidelines mitigation heading (i.e. all lights including street lights and pedestrian walkways should be directed away from and fully shielded so as not to illuminate adjacent biological resource areas of concern), however, the project is not conditioned by the City to require the use of non-reflective glass be used on the exterior of the building or the treatment of building windows to prevent indoor light from shining through and causing bird disorientation. These measures should be incorporated into the MND's mitigation measures and carried forward as conditions (including recordation on construction documents) for the Sorrento Pointe project to reduce the potential for avian collisions as a result of the proposed project.

In summary, the City's approval of the proposed development is inconsistent with the policies of the certified LCP relating to protection of sensitive upland biological resources, public views and lagoon habitats in the Torrey Pines community, as well as the policies of the City of San Diego's Biology guidelines, environmentally sensitive land regulations and the MSCP Subarea Plan regarding habitat impacts and mitigation requirements.