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January 16, 1997

TO: Commissioners and Interested Persons

FROM: Charles Damm, South Coast Deputy Director
Teresa Henry, District Manager
Meg Vaughn, Staff Analyst

SUBJECT: CITY OF LAGUNA BEACH LOCAL COASTAL PROGRAM AMENDMENT 1-96
Effective throughout the City's coastal zone (for Commission action at the meeting of February 4-7, 1997, in San Diego).

SUMMARY OF AMENDMENT REQUEST:

Request by the City of Laguna Beach for Commission action on proposed Land Use Plan amendment 1-96 to the Laguna Beach certified Local Coastal Program. The amendment proposes to modify the Vegetation and Wildlife Resources and the Watersheds and Watercourses text and policies of the certified Open Space/Conservation Element of the Land Use Plan and to add a new section titled Constraints Mapping. In addition, the amendment would add Biological Resources Values Maps for the South Laguna and Laguna Canyon annexation areas.

STAFF NOTE:

The subject amendment was previously submitted by the City as Laguna Beach LCP amendment 1-95. The City withdrew the amendment prior to public hearing before the Commission.

STANDARD OF REVIEW AND TIME LIMIT TO ACT

For the proposed Land Use Plan amendment, the standard of review pursuant to Section 30514 of the Coastal Act, shall be conformance with the Chapter 3 policies of the Coastal Act. Proposed LCP amendment submittal 1-96 was deemed complete on November 14, 1996. Pursuant to Section 30512 of the Coastal Act the Commission must act on a Land Use Plan amendment within 90 days of the date of complete submittal. Ninety days from November 14, 1996 is February 12, 1997. Pursuant to Section 30517 of the Coastal Act, however, the Commission may, for good cause and not to exceed one year, extend the 90 day time limit.

ADDITIONAL INFORMATION

Copies of the staff report are available at the South Coast District Office of the Coastal Commission. To obtain copies of the staff report by mail, or for additional information, contact Meg Vaughn at the above address and telephone number.

STAFF RECOMMENDATION

Staff is recommending denial of the Land Use Plan amendment as submitted due to its non conformity with the Chapter 3 policies of the Coastal Act regarding protection of environmentally sensitive habitat areas. Staff recommends approval of the Land Use Plan amendment with suggested modifications which will bring the submittal into conformity with the Chapter 3 policies of the Coastal Act.

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EXECUTIVE SUMMARY

The proposed Land Use Plan amendment would modify the existing Vegetation and Wildlife Resources (Topic 8) and the Watersheds and Watercourses (Topic 9) policies of the Open Space/Conservation Element (OSCE) of the certified Land Use Plan. In addition, the proposed amendment would add a new topic to the Open Space/Conservation Element titled Constraints Mapping (proposed Topic 15). The proposed amendment would also add Biological Resources Values maps for the South Laguna and Laguna Canyon annexation areas.

The proposed changes to the Vegetation and Wildlife Resources policies are the most substantive changes of the amendment. The amendment would result in reorganizing the Topic 8 policies as well as adding new policies. Currently the Vegetation and Wildlife Resources policies in the certified LUP limit uses within environmentally sensitive habitat areas (ESAs) to uses dependent upon the ESA resources, resource management uses, and rebuilding and repair of existing nonconforming dwellings if damaged or destroyed by natural disaster. The proposed change to the Topic 8 policies would allow construction of a single family house within ESA if located on an otherwise legal building site.

Staff is recommending suggested modifications to bring the Land Use Plan amendment into conformity with the Chapter 3 policies of the Coastal Act, specifically Section 30240 which requires protection of environmentally sensitive habitat areas. Staff is recommending a modification to the City's proposal that recognizes that the City cannot apply the Vegetation and Wildlife Resources polices in a way that will take private property. Further, the suggested modification identifies the factors the City must consider when development inconsistent with the ESA protection policies must be allowed, including the property owner's reasonable investment backed expectations. The suggested modification reflects the need to balance protection of ESA as required by the Coastal Act and land use policies with the property owner's constitutional right to an economic use of his or her property. Finally, the suggested modification identifies necessary procedures the City must develop as implementing ordinances to carry out the suggested land use policy.

Other changes proposed to the Vegetation and Wildlife Resources topic include incorporation of language reflecting the biological inventories prepared for South Laguna and the Laguna Canyon annexation areas into the text. Changes to the text of Topic 8 include adding descriptions of both areas, and an updated discussion on the function of the Biological Resources Values Maps.

The changes proposed to the Watersheds and Watercourses topic are the incorporation of descriptions of the South Laguna and Laguna Canyon annexation areas and updated discussion of drainage and runoff management.

The amendment also proposes to include two new Biological Resources Values Maps for the South Laguna and Laguna Canyon annexation areas. A Biological Resources Values Map was previously certified for the pre-annexation area of the City. The Biological Resources Values Maps identifies areas of High and Very High Value Habitat, as well as significant natural drainage courses.

Proposed new Topic 15 Constraint Mapping would require a constraint analysis for tentative maps and the creation of new building sites and for existing building sites when Design Review Board approval is required and there are multiple significant environmental constraints. Environmental constraints

areas identified as pertinent environmental features include (but are not limited to) topography, drainage, soil stability, rock outcroppings, major ridgelines, accessibility, public/private view corridors, high and very high value habitats and wildlife migration corridors. Proposed Topic 15 would also contain text regarding the need for constraint mapping.

I. DENIAL OF THE LAND USE PLAN AMENDMENT AS SUBMITTED

MOTION I

I move that the Commission certify amendment request No. 1-96 to the City of Laguna Beach LCP Land Use Plan as submitted.

STAFF RECOMMENDATION

Staff recommends a NO vote which would result in the adoption of the following resolution and findings. An affirmative vote of a majority of the Commissioners present is needed to pass the motion.

RESOLUTION

The Commission hereby denies certification of amendment request No. 1-96 to the City of Laguna Beach Land Use Plan as submitted and finds for the reasons discussed below and that the amended Land Use Plan fails to meet the requirements of and does not conform to the policies of Chapter 3 of the Coastal Act. The Land Use Plan amendment as submitted is not consistent with applicable decisions of the Commission that guide local government actions pursuant to Section 30625(c) of the Coastal Act, and approval of the amendment as submitted will have significant environmental effects for which feasible mitigation measures have not been employed consistent with the California Environmental Quality Act. There are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the approval of the Land Use Plan amendment would have on the environment.

II. APPROVAL OF THE LAND USE PLAN AMENDMENT IF MODIFIED:

MOTION II

I move that the Commission certify amendment request No. 1-96 to the City of Laguna Beach LCP Land Use Plan if it is modified in conformity with the modifications suggested below.

STAFF RECOMMENDATION:

Staff recommends a YES vote which would result in the adoption of the following resolution. The motion requires an affirmative vote of the majority of the Commissioners present to pass.

RESOLUTION TO CERTIFY THE LAND USE PLAN AMENDMENT IF MODIFIED

The Commission hereby certifies amendment request No. 1-96 to the City of Laguna Beach Land Use Plan for the reasons discussed below on the grounds that the amended Land Use Plan meets the requirements of and conforms to the Chapter 3 policies of the Coastal Act if modified according to the suggested modifications stated in Section III of this report. The Land Use Plan amendment, if modified, is consistent with applicable decisions of the Commission that guide local government actions pursuant to Section 30625(c) of the Coastal Act, and approval of the amendment as modified will not have significant environmental effects for which feasible mitigation measures have not been employed consistent with the California Environmental Quality Act. The Commission further finds that if the local government adopts and transmits its revisions to the amendment to the Land Use Plan in conformity with the suggested modifications, then the Executive Director shall so notify the Commission.

III. SUGGESTED MODIFICATIONS:

The Commission hereby suggests the following changes to the proposed Land Use Plan amendment which are necessary to bring it into conformity with the Chapter 3 policies of the Coastal Act. If the local government accepts the suggested modifications, within six months of Commission action, by formal resolution of the City Council, the Land Use Plan Amendment will become effective upon Commission concurrence with the Executive Director finding that this has been properly done.

Suggested additions are underlined and deletions are crossed out.

Certification of the Land Use Plan Amendment is subject to the following modifications:

On the seventh page of the Topic 8 Vegetation and Wildlife Resources text modify paragraph 4 as follows:

The Bilogical Resources Values Map in particular is an important resource map for open space preservation because it identifies and ranks high and very high habitats within the City. Of the four ...

Modify policy 8-F as follows:

8-F Environmentally Sensitive Areas (ESA's) as defined in Section 30107.5 of the California Coastal Act shall be identified and mapped on a Biological Resources Values Map ~~Coastal/ESA/Map~~. The following areas shall be ...

Modify policy 8-G as follows:

Detailed biological assessments shall be required for all new development proposals, including all subdivisions and fuel modification proposals, located within or adjacent to areas designated as high or very high value on the

Biological Resources Values Map. Such biological assessments shall utilize the biological value criteria specified in the Biological Resources Inventories (1983 and 1992).

Combine and modify policies 8-H and 8-I as follows (delete those portions of 8-I and 8-H that are not included below):

8-H When development for any type of construction, including grading, is proposed on an existing subdivided parcel ~~that is not a legal building site~~ and the development is consistent with all policies of this Land Use Plan except for its location entirely within an identified ESA as confirmed by a site-specific biological assessment, the following shall apply:

a. Resource management uses including estuaries, nature centers and other similar scientific or recreational uses are permitted subject to a Conditional Use Permit to assure that uses are sited and designed to prevent degradation of the resource value.

b. No new building sites shall be created which are entirely within a coastal ESA or which do not contain a site where development can occur consistent with the ESA policies of this Plan.

c. Very high value habitats and other areas that meet the definition of an Environmentally Sensitive Area (ESA) pursuant to policy 8-F shall be preserved. ~~and~~ Other high value habitat shall be preserved to the greatest extent possible; and, mitigation measures ~~for~~ to protect immediately adjacent Environmentally Sensitive Areas shall also be required.

d. A transfer of density may be permitted to another property in the vicinity able to accommodate the density consistent with the policies of the Land Use Plan and concurrent with the recordation of an open space easement or other similar instrument over the environmentally sensitive area of the (original) parcel. ~~(or alternatively~~

e. Existing dwellings may be rebuilt in-kind, if destroyed by natural disaster.

Modify Policy 8-K as follows:

8-K When subdivision proposals are situated in areas designated as high or very high value on the Biological Resources Values Map or otherwise meet the definition of an Environmentally Sensitive Area pursuant to Policy 8-F and where ~~these~~ the environmental sensitivity ~~are~~ is confirmed by subsequent onsite biological assessment ~~/~~

a. Require maximum preservation possible of the high value habitats and when appropriate, require that mitigation measures be enacted for immediately adjacent areas.

b. Require preservation of very high value habitats and, when appropriate, require that mitigation measures be enacted for immediately adjacent areas.

c. Create no new building sites which are entirely within an identified Coastal ESA or which do not contain an area where development can occur consistent with the ESA policies of this Plan.

Modify policy 8-L as follows:

8-L Except as otherwise provided in Policies 8-H and 8-I, and/or no development proposals shall be located in areas that meet the definition of an Environmentally Sensitive Area pursuant to Policy 8-F designated as Environmentally Sensitive Areas on the Coastal ESA Map except for uses dependent upon such resources.

The Vegetation and Wildlife Resources policies of the Local Coastal Program Land Use Plan are not intended to authorize, and shall not be construed as authorizing the City of Laguna Beach to exercise its authority to grant permits in a manner which will take or damage private property for public use without just compensation.

However, no development that is inconsistent with the Vegetation and Wildlife Resources policies, shall be approved on the basis that denial will result in a taking of private property unless the City finds that the applicant has demonstrated that denial of a permit will deprive the property owner of all economically viable use of the property and interfere with reasonable investment-backed expectations.

A determination of the property owner's reasonable investment backed expectations shall be based upon a variety of factors, including but not limited to:

1. existing development (size, siting, etc.) in the area that is similarly situated, and

2. purchase price paid by the applicant for the property, and

3. the general plan, zoning or similar land use designation applicable to the property at the time the applicant acquired it.

Any development that is approved on the basis that denial will result in a taking shall:

1. be limited to the minimum necessary to provide a viable economic use commensurate with the property owner's reasonable investment backed expectations, and

2. maximize protection of environmentally sensitive areas (ESAs), and

3. Mitigate the unavoidable impacts to environmentally sensitive areas.

The City shall develop procedures for:

1. evaluating whether denial of a coastal development permit based on the Vegetation and Wildlife Resources policies will deprive a property owner of all economically viable use of property and interfere with the property owner's reasonable investment backed expectations.

2. determining the appropriate level of development when some use must be allowed.

3. insuring appropriate mitigation of unavoidable adverse impacts to environmentally sensitive areas (ESAs).

These procedures shall be set forth in the Implementation Plan.

Modify 8-M as follows:

8-M When new development proposals are situated in areas adjacent to "Environmentally Sensitive Areas" as defined in policy 8-F ~~designated on the Coastal ESA Map~~ and where these are confirmed by subsequent onsite biological assessment, require that development be designed and sited to prevent impacts which would degrade such areas.

IV. FINDINGS FOR DENIAL AS SUBMITTED

The Commission hereby finds and declares as follows:

A. Local Coastal Program Background

The City of Laguna Beach Land Use Plan was certified by the Commission with suggested modifications in June 1986. The City's Implementation Plan was certified with suggested modifications on July 7, 1992. The City formally accepted the modifications and assumed permit issuing authority in February 1993.

The City's LCP was certified in geographic part. Five areas within the City's coastal zone were deferred certification. The five areas of deferred certification are: the locked gate communities of Three Arch Bay, Blue Lagoon, Treasure Island and Irvine Cove; the fifth area of deferred certification is the undeveloped hillside area located inland of Coast Highway known as Hobo Canyon. The proposed amendment will not change the deferred status of any of the areas of deferred certification.

B. Amendment Description

The proposed Land Use Plan amendment would modify the existing Vegetation and Wildlife Resources (Topic 8) and the Watersheds and Watercourses (Topic 9) policies of the Open Space/Conservation Element (OSCE) of the certified Land Use Plan. In addition, the proposed amendment would add a new topic to the Open Space/Conservation Element titled Constraints Mapping (proposed Topic 15). The proposed amendment would also add a Biological Resources Values map for South Laguna and Laguna Canyon. These two areas were annexed by the City in 1988.

The proposed changes to the Vegetation and Wildlife Resources policies are the most substantive changes of the amendment. The amendment would result in reorganizing the Topic 8 policies as well as adding new policies. Currently the Vegetation and Wildlife Resources policies in the certified LUP limit uses

within environmentally sensitive habitat areas (ESAs) to uses dependent upon the ESA resources, resource management uses, and rebuilding and repair of existing nonconforming dwellings if damaged or destroyed by natural disaster. The proposed change to the Topic 8 policies would allow construction of a single family house on a site that is comprised entirely of ESA if the site is a legal building site.

Other changes proposed to the Vegetation and Wildlife Resources topic include incorporation of language reflecting the biological inventories prepared for South Laguna and the Laguna Canyon annexation areas into the text. Changes to the text of Topic 8 include adding descriptions of both areas, and an updated discussion on the function of the Biological Resources Values Maps.

The changes proposed to the Watersheds and Watercourses topic are the incorporation of descriptions of the South Laguna and Laguna Canyon annexation areas and updated discussion of drainage and runoff management. Proposed changes to the Watersheds and Watercourses policies are a change to policy 9-N that will require that private property owners be "notified on how to inspect and maintain" private drainage structure rather than "encouraged" to maintain them. Another proposed change would require that debris collection devices be provided at suitable locations rather than simply investigating methods to establish them. Policy 9-P is proposed to be deleted. Policy 9-P states:

> Promote the expenditure of capital improvement funds for debris collection devices.

Proposed new Topic 15 Constraint Mapping would require a constraint analysis for tentative maps and the creation of new building sites and for existing building sites when Design Review Board approval is required and there are multiple significant environmental constraints. Environmental constraints areas identified as pertinent environmental features include (but are not limited to) topography, drainage, soil stability, rock outcroppings, major ridgelines, accessibility, public/private view corridors, high and very high value habitats and wildlife migration corridors. Proposed Topic 15 would also contain text regarding the need for constraint mapping.

The amendment also proposes to include two new Biological Resources Values Maps for the South Laguna and Laguna Canyon annexation areas. A Biological Resources Values Map was previously certified for the pre-annexation area of the City. The Biological Resources Values Maps identifies areas of High and Very High Value Habitat. The proposed maps will also identify significant natural drainage courses. The LUP definition of ESA includes streams on the Major Watersheds and Drainage Courses Map which are also streams as identified on the USGS 7.5 Minute Quadrangle Series. The proposed maps will serve as both the Biological Resources Values Maps and the Major Watersheds and Drainage Courses Maps for the South Laguna and Laguna Canyon areas. The proposed maps are based on the Laguna Canyon Biological Resources Inventory dated May 28, 1993 and the South Laguna Biological Resources Inventory dated January 20, 1992. Both inventories were prepared for the City of Laguna Beach by Karlin G. Marsh, Biological Consultant.

The changes to the Vegetation and Wildlife Topic 8 polices are proposed because the City believes the currently certified policies are ambiguous and not legally defensible. The amendment is proposed to provide clarity and legal defensiblity, particularly with regard to development on legal building sites.

C. Environmentally Sensitive Habitat Areas

Section 30240 of the Coastal Act states:

> (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
>
> (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30107.5 of the Coastal Act defines environmentally sensitive habitat as follows:

> Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

The City's certified Land Use Plan Open Space/Conservation Element contains a definition of ESA in policy 8-F:

> Environmentally Sensitive Areas (ESA's) as defined in Section 30107.5 of the California Coastal Act shall be identified and mapped on a Coastal ESA Map. The following areas shall be designated as Environmentally Sensitive Areas: those areas shown on the Biological Resource Values Map in the Open Space/Conservation Element as very high habitat value and streams on the Major Watersheds and Drainage Courses Map which are also streams as identified on the USGS 7.5 Minute Quadrangle Series and any other areas which contain environmentally sensitive habitat resources as identified through an onsite biological assessment process, including areas of high and moderate habitat value on the Biological Resources Values Map and areas which meet the definition of ESA's in Section 30107.5 of the Coastal Act, including streams, riparian habitats, and areas of open coastal waters, including tidepools, areas of special biological significance, habitats of rare or endangered species, near-shore reefs and rocky intertidal areas and kelp beds.

The City's Biological Resources Values Map shows that significant ESA exists throughout the City of Laguna Beach. According to the City's amendment submittal there are nearly 2,450 acres of undeveloped land within the hillsides of Laguna Beach. These lands provide a variety of habitats for numerous plant and wildlife species. These lands were subject to biological inventories to assess the amount and type of existing habitat. Some of the habitats of Laguna Beach are coastal sage scrub, chaparral, grasslands, south oak (or coastal live oak) woodland, riparian brushland and others. The City has ranked the habitats based on their value. The habitat value is determined by types of vegetation, the extent of the habitat, and their use by sensitive and other species, as well as other factors. In previous LCP action the Commission has approved the City's definition of ESA and the City's method for ranking habitat value. Both Coastal Act Section 30240 and the City's LUP as currently certified require that ESAs be protected.

The City's Vegetation and Wildlife policies, which prohibit development in ESAs, apply throughout the City. Much of the significant ESA acreage lies within areas of the City that are zoned residential use. Some ESA areas are already subdivided.

The amendment does not propose to change the ESA definition. Nor does the amendment change the policy that an ESA be preserved. However, the proposed amendment adds an exception to the requirement that ESA be preserved by allowing development of single family houses on parcels located entirely within ESA. The amendment distinguishes between non legal building sites, legal building sites, and new subdivisions. The amendment would allow single family homes within ESA only on legal building sites. The City does not propose to allow single family houses within ESA on non-legal building sites. Further, the amendment does not eliminate the requirement that new subdivisions preserve ESA. The LUP as amended continues to prohibit the creation of new lots that consist entirely of ESA.

In the submittal letter accompanying the amendment request the City states that the amendment is proposed because the present ESA policy language is "ambiguous and not legally defensible." The letter further states "the proposed changes to the policy language address those problems; the reorganized format and additional language provide improved clarity and legal defensibility, particularly with regard to legal building sites." The City's concern is that application of the current Vegetation and Wildlife Resources policies which require protection of ESA might effect a "taking" of property in violation of the California and U.S. Constitutions because it might deny the property owners all economically viable use of their property. To address these concerns the City has proposed to revise the Vegetation and Wildlife Resources policies so that they allow development of a single family house within ESA on an otherwise legal building site.

The City's proposal to permit the development of a single family house in certain instances to provide an economically viable use of property provides an unwarranted and ultimately ineffective remedy for the City's concerns. The proposal is not clearly necessary because merely stating in a planning document what uses of property shall be allowed in the future is not typically considered to be the same as definitively stating an intention not to allow an economically viable use of property. The Court of Appeal in Sierra Club v. California Coastal Commission (1993) 12 Cal.App.4th 602, stated that questions of economic viability are not ripe for consideration until the regulating government agency is presented with a specific plan for development of a particular parcel. In general, this level of specificity does not arise until there is an actual permit application. Consistent with this court decision, Coastal Act section 30010 prevents the Commission and local governments from using their coastal "permit" authority to take private property for public use. Therefore, economic viability issues are not required to be addressed in LCPs. In fact, the Sierra Club court said the Commission and local governments cannot use vague concerns about the potential for a taking as the basis for refusing to designate areas as environmentally sensitive habitats in LCPs where these areas are environmentally sensitive within the meaning of the Coastal Act. Thus, based upon Sierra Club, the Commission cannot certify an LUP that allows development in an ESA, inconsistent with Coastal Act section 30240, to address vague concerns about potential takings claims.

Even if a process could be included in the LCP to directly address the question of economically viable use in ESAs, the amendment proposed by the

City fails to address the issue Consistent with the Chapter 3 policies of the Coastal Act. The City's amendment fails to identify how the City will determine that application of ESA preservation policies will result in a taking, and how it will determine the size and location of a home in cases where it concludes that denial of a home will result in a taking. Finally, the amendment does not indicate that unavoidable impacts to an ESA will be mitigated. Instead, the amendment would allow construction of a house on a site that is comprised entirely of ESA without requiring the developer to demonstrate that denial of a house on the site would result in a taking and without requiring the applicant to demonstrate that the development proposal is commensurate with reasonable investment backed expectations. The City's Land Use Plan is consistent with Coastal Act Section 30240 only if maximum protection of the ESA is assured. Such assurance is provided only if very specific standards for determining deprivation of economic use are applied before any development within an ESA is allowed. The proposed amendment language does not include either standards or criteria for developing such standards in the Implementing Ordinances. Consequently, the possibility exists that development inconsistent with Coastal Act Section 30240 may be allowed without any documentation that not allowing the development deprives an applicant of all economically viable use. Finally, the proposed amendment does not contain development standards which are applicable when an applicant for a coastal development permit can demonstrate that denial of the proposed project based on application of the certified LCP would deprive his or her property of all economically viable use.

Thus, as proposed, the amendment is inconsistent with Section 30240 of the Coastal Act and is also inadequate to carry out the ESA policies of the certified LUP in a manner consistent with Section 30010 of the Coastal Act and the United States and California Constitutions. Therefore, as proposed the amendment must be denied.

D. Internal Inconsistencies

Only High and Very High Habitats are Mapped

As proposed the amendment includes language which states: "The Biological Values Map in particular is an important resource map for open space preservation because it identifies and ranks open space habitat within the City." The LUP discusses four habitat rankings: Very High, High, Moderate, and Low. Of these, the locations of High and Very High are shown on the Biological Resources Values Map. All Very High Value habitats are considered ESA by the LUP ESA definition. High and Moderate are considered ESA only if a biological assessment of such habitat is performed and concludes that the habitat meets the definition of ESA.

The proposed language implies that all four habitat value rankings appear on the Biological Resources Values Map. However, only High and Very High value habitats are mapped. The language identified above implies that the location of the Moderate and Low value habitat areas will also be depicted on the Biological Resources Values Map. Because the map does not identify the Moderate and Low value habitat locations, the proposed language is not completely accurate and is confusing. A reviewer would not be certain that in reviewing the Biological Resources Values Map, the correct map had been consulted or whether a second map that does identify Moderate and Low value habitats exists.

Because the proposed language is not completely accurate and clear and implies that all four rankings are mapped instead of two, it will not adequately carry out the ESA protection polices of the Coastal Act. Therefore, the Commission finds that as proposed, the amendment is not consistent with Section 30240 of the Coastal Act.

Different Titles Are Used for the Same Map

Throughout the text and policies of Topic 8, Vegetation and Wildlife Resources, different titles are used for the Biological Resources Values Map. The different titles include the Coastal ESA Map, the Biological Values Map, and the Biological Resources Values Map. The implication is that there is more than one map when in fact there is only one. This leads to confusion as it is not clear whether a single map or more need to be consulted when applying the ESA policies.

Because the proposed language is not clear and implies that there are multiple maps addressing biological significance, it will not adequately carry out the ESA protection polices of the Coastal Act. Therefore, the Commission finds that as proposed, the amendment is not consistent with Section 30240 of the Coastal Act.

ESA Includes All Areas Identified Under Policy 8-F

Policy 8-F of the certified LUP provides the definition of environmentally sensitive area. The ESA definition is not proposed to be changed. Policy 8-F states:

> Environmentally Sensitive Areas (ESA's) as defined in Section 30107.5 of the California Coastal Act shall be identified and mapped on a Coastal ESA Map. The following areas shall be designated as Environmentally Sensitive Areas: those areas shown on the Biological Resource Values Map in the Open Space/Conservation Element as very high habitat value and streams on the Major Watersheds and Drainage Courses Map which are also streams as identified on the USGS 7.5 Minute Quadrangle Series and any other areas which contain environmentally sensitive habitat resources as identified through an onsite biological assessment process, including areas of high and moderate habitat value on the Biological Resources Values Map and areas which meet the definition of ESA's in Section 30107.5 of the Coastal Act, including streams, riparian habitats, and areas of open coastal waters, including tidepools, areas of special biological significance, habitats of rare or endangered species, near-shore reefs and rocky intertidal areas and kelp beds.

Some of the proposed amendment's language, however, implies that only Very High value habitats, and sometimes High value habitat, requires protection. For example, proposed policies 8-H and 8-K require that Very high value habitats be preserved and high value habitat be preserved to the greatest extent possible. However, some areas of High and Moderate Value habitat can be designated as ESA upon completion of a site-specific biological assessment. If the High and Moderate Value habitat areas meet the definition of ESA, they must be protected. Similarly, policy 8-M refers to " 'Environmentally Sensitive Areas' as designated on the Coastal ESA Map" as needing protection. But the mapped areas do not include all of the areas that meet the definition of ESA. Since the policies do not require preservation of High value areas when designated ESA, the policies would allow development within an ESA inconsistent with the ESA protection policies of the Coastal Act.

The certified ESA definition identifies a wider range of areas to be considered ESA, not just those that appear on the Biological Resources Values Maps. The definition recognizes that some ESA may exist that was not mapped. Inclusion of these areas as ESA is critical to assure that all ESA in the City is protected. Therefore, the Commission finds that the amendment as proposed is not consistent with Section 30240 of the Coastal Act which requires protection of environmentally sensitive habitat areas.

V. FINDINGS FOR APPROVAL IF MODIFIED:

The Commission hereby finds and declares as follows:

The Commission hereby incorporates by reference its findings for denial of the proposed land use plan amendment as submitted. Below are additional specific findings to support each of the modifications contained in section III of this report:

A. Modifications to Vegetation and Wildlife Resources Policies Topic 8 To Ensure Economically Viable Use

As discussed above, case law on "takings" generally holds that plans and ordinances themselves do not take property. These plans merely provide the theoretical ideas and standards by which future development proposals should be measured, but stop short of providing a definitive statement of what uses will be permitted on property. Such a definitive statement usually is not rendered until the regulating agency has an opportunity to consider a permit application for a specific project on a specific parcel. For these reasons, the City's concern that application of the Vegetation and Wildlife Resources policies might constitute a taking if the uses provided by the policies did not provide property owners with an economically viable use of their property is premature.

Nevertheless, it is clear that ESA has been identified in areas of the City that are zoned for residential development and where subdivisions have already occurred. The locations of all ESA areas are not specifically identified in the City's LCP and would be dependent upon site specific biological assessments. An example of an area within the City that has been subdivided and zoned R-1 is the Diamond Crestview area. The Diamond Crestview area was subdivided in 1925 and contains approximately 161 lots. Of the 161 lots, approximately 56 lots contain, on at least part of the lot, very high value habitat. In addition, 28 lots contain, on at least part of the lot, high value habitat. All the Diamond Crestview lots are zoned Residential Low Density (R-1). The unique situation that occurs when ESA areas are identified on parcels zoned for development requires unique responses by the City and the Commission.

Given the unique facts in this situation, the Commission finds that it would be appropriate for the City's Land Use Plan to include policies that indicate how the City will address "takings" issues. However, the Land Use Plan should set forth the policies that will be implemented by the City's ordinances. The Commission's suggested modifications therefore establish policies that will apply to the establishment of ordinances.

The suggested Land Use Plan policies are intended to guide the City's development of Implementing Ordinances. Recent court cases have identified several factors that should be weighed when considering whether a government regulatory action constitutes a taking of property. For instance, in Lucas v. South Carolina Coastal Council (1992) 505 U.S. _: 112 S. CT. 2886, the U.S. Supreme Court held that where a permit applicant has demonstrated that he or she has a sufficient real property interest in the property to allow the proposed project, and that project denial would deprive his or her property of all economically viable use, then denial of the project by the regulatory agency would result in a taking of the property unless the proposed project would constitute a nuisance under state law. These court decisions also suggest that the nature of the permit applicant's property interest and the reasonable investment-backed expectations of the property owner are relevant factors in determining whether a regulatory action would constitute a taking.

Based on these cases, the Commission's suggested policies will require the City to develop procedures for ensuring that property owners will provide the City with specific information about the economic factors affecting their property. For instance, the applicant for an economic viability determination should be asked to provide information relating to the costs of holding the property, as well as the facts surrounding their decision to invest in the property. Without such information, it would not be possible to determine either what level of economic return on the property is necessary to provide an economic use, or what were the property owner's reasonable investment-backed expectations.

The suggested modification identifies the categories of information that the City must consider at the time of coastal development permit application. The City must develop implementing ordinances that require the submittal of specific information to allow the coastal development permit issuing agency to identify the applicant's reasonable investment backed expectations and determine whether application of the LCP policies, provisions, and zoning would deprive the property owner of all economically viable use of his or her property. Without such information, a definitive determination that a taking will occur could not be made. Without a definitive determination, ESA protection is jeopardized because some development in ESA may be allowed even though it is not necessary to avoid a takings.

If an applicant demonstrates that denial of the project would deprive his or her property of all reasonable economic use, the City may be required to allow some development even where a Land Use Plan Policy would otherwise prohibit it. In complying with this requirement, however, a regulatory agency may deny a specific development proposal while indicating that a more modest alternative proposal could be approvable, and thus assure the property owner of some economically viable use. While applicants are entitled under Section 30010 to an economically viable use of their property, this section does not authorize the Commission or a certified local government to avoid application of the certified local coastal program altogether. Instead, the Commission or a certified local government is only directed to avoid construing these policies in a way that would take property. Aside from this instruction, the Commission or a certified local government is still otherwise directed to enforce the requirements of the certified LCP. Therefore, in this situation, the Commission and certified local government must comply with Section 30240, land use policies and zoning standards by protecting ESA to the maximum extent possible while allowing the minimum development necessary to provide an economic use that is commensurate with reasonable investment backed

expectations. Thus, the application of the ESA protection policies of the Coastal Act, land use policies and zoning must be balanced with the competing constitutional requirement of assuring a property owner viable economic use of his or her property. Therefore, the Commission finds that the Vegetation and Wildlife Resources policies must include policies that guide the City's development of procedures for determining how to insure that development in ESA is designed to result in the minimum impacts necessary to provide a use commensurate with reasonable investment backed expectations.

In conclusion, a modification to the City's proposal is suggested that recognizes that the City cannot apply the Vegetation and Wildlife Resources polices in a way that will take private property. Further, the suggested modification includes policies to insure the City will establish procedures for determining when development inconsistent with the ESA protection policies must be allowed in order to avoid a taking. The suggested modification reflects the need to balance protection of ESA as required by the Coastal Act and land use policies with the property owner's constitutional right to an economic use of his or her property. Finally, the suggested modification insures that the City will develop implementing ordinances to carry out the suggested land use policies.

As a result of the suggested modification to the land use policy the City will be able to balance the competing requirements of maximum preservation of ESA and assurance of an economically viable use for private property owners. In addition, the suggested modification provides the City with the standards applicable to establishment of ordinances that will implement the suggested policy. Therefore, the Commission finds, for all the reasons articulated herein, that only as modified is the proposed amendment in conformity with Section 30240 of the Coastal Act.

B. Clarification of Internal Inconsistencies

The suggested modifications will change the proposed text to clarify that only Very High and High value habitats are depicted on the Biological Resources Values Map. In addition, the suggested modifications would result in the use of a single term for the Biological Resources Values Map, which is critical in assuring protection of ESA. Further the suggested modifications will clarify that all areas that meet the certified LUP designation of ESA will be protected accordingly. Finally, the suggested modifications will clarify that only new subdivisions that can accommodate development consistent with the ESA policies of the LUP will be allowed. These modifications are necessary to eliminate the confusion and lack of ESA protection discussed in Section IV of this report. Therefore, the Commission finds that only as modified, is the proposed amendment consistent with Section 30240 of the Coastal Act.

C. Watersheds and Watercourses

As discussed previously in this report, the changes proposed to the Watersheds and Watercourses text and polices are relatively minor in nature. The proposed amendment will update the existing text and polices. As proposed, the Commission finds the proposed amendment to the Watersheds and Watercourses text and policies consistent with the Chapter 3 policies of the Coastal Act.

D. Biological Resources Values Maps

The proposed Biological Resources Values Maps for the South Laguna and Laguna

Canyon annexation areas are based on extensive Biological Resources Inventories for each of the areas. The inventories were prepared by a qualified biological consultant. The inventories detail the types of flora and fauna that exist throughout each of the two area's undeveloped land. The inventories provided the basis for categorizing the habitat value.

The proposed maps reflect the information established by the Biological Inventories. The maps will provide a significant tool in identifying and thereby preserving significant habitats in the areas. Therefore, the Commission finds, that as proposed the portion of the amendment to include into the LUP the two Biological Resources Values Maps, for South Laguna and Laguna Canyon, is consistent with the ESA protection polices of the Coastal Act.

E. Constraints Mapping

Proposed new Topic 15 Constraint Mapping would require a constraint analysis for tentative maps and the creation of new building sites and for existing building sites when Design Review Board approval is required and there are multiple significant environmental constraints. Environmental constraints areas identified as pertinent environmental features include (but are not limited to) topography, drainage, soil stability, rock outcroppings, major ridgelines, accessibility, public/private view corridors, high and very high value habitats and wildlife migration corridors. Proposed Topic 15 would also contain text regarding the need for constraint mapping.

The Constraint Mapping will require applicants for development in significant areas (based on ESA, topography, or other development limiting factors) to provide the decision makers with adequate information to make informed decisions. Without the information required by the Constraint Mapping, it will be difficult to apply many of the LUP policies, including the ESA policies. It is critical for decisions makers to have site specific information for areas proposed for development. The proposed Constraint Mapping text and policies will facilitate application of the existing LUP policies, thereby increasing the level of protection of significant areas of the City. Therefore, the Commission finds that the portion of the amendment to add policies and text regarding Constraint Mapping is consistent with the Chapter 3 policies of the Coastal Act.

VI. CEQA FINDINGS

Pursuant to SB 1873, which amended the California Environmental Quality Act the Coastal Commission is the lead agency in terms of meeting California Environmental Quality Act (CEQA) requirements for local coastal programs. In addition to making a finding that the Land Use Plan amendment is in full compliance with CEQA, the Commission must make a finding consistent with Section 21080.5 of the Public Resources Code. Section 21080.5(d)(2)(i) of the Public Resources Code requires that the Commission not approve or adopt an LCP:

> ...if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

The Commission finds that there are no feasible mitigation measures available that could substantially reduce adverse environmental impacts. For the reasons discussed in this report, there are no feasible alternatives or mitigation measures available that could substantially reduce adverse environmental impacts. The Commission further finds, therefore, that the Land Use Plan Amendment, as modified, is consistent with Section 21080.5(d)(2)(i) of the Public Resources Code.

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RESOLUTION 93.072

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH TO AMEND THE OPEN SPACE/CONSERVATION ELEMENT OF THE GENERAL PLAN AND THE LOCAL COASTAL PROGRAM

WHEREAS, a Biological Resources Inventory and associated Biological Resource Values Map, identifying sensitive wildlife and vegetative habitats as well as significant natural watercourses, has been completed for the South Laguna area; and

WHEREAS, the Open Space/Conservation Element of the Laguna Beach General Plan provides a Biological Values Map and Major Watersheds and Drainage Courses Map for the incorporated area of Laguna Beach as it existed prior to the South Laguna Annexation, but to date lacks similar information for the South Laguna area; and

WHEREAS, the Biological Values Map is an important resource map for open space preservation because it identifies and ranks open space habitats within the City, and the Major Watersheds & Drainage Courses Map identifies environmentally sensitive watercourses so that appropriate protection can be established as a part of the development review process; and

WHEREAS, previously adopted text and policy language contained in the Addendum to the Open Space/Conservation Element and related to environmentally sensitive areas in the South Laguna area, necessitated editing the text and policies in Topics 8 and 9 of the Open Space/Conservation Element in order to incorporate such material into the main body of said

Laguna Beach LCP Am. 1-96 Exhibit A, 1

Open Space/Conservation Element; and

WHEREAS, a new topic in the Open Space/Conservation Element has been created to address the purpose of and need for constraint mapping; and

WHEREAS, pursuant to Division 20 (commencing with Section 30000 et seq.) of the California Public Resources Code, known as the California Coastal Act, a Local Coastal Program which includes the Open Space/Conservation Element as a part of its Coastal Land Use Plan has been prepared and approved by the City of Laguna Beach, and subsequently certified by the California Coastal Commission; and

WHEREAS, the Laguna Beach Planning Commission unanimously recommended approval of the proposed amendments at its meeting of July 14, 1993;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH HEREBY RESOLVES as follows:

Section 1. The City Council approves General Plan Amendment 93-01 including the text and policy changes to the Open Space/Conservation Element as identified in Exhibits A, B and C (attached) and the Biological Resources Map and Major Watersheds & Drainage Courses Map for the South Laguna area.

Section 2. The City Council approves Local Coastal Program Amendment 93-02 to include all changes identified in Exhibits A, B and C (attached) and the Biological Resources Map and Major Watersheds & Drainage Courses Map for the South Laguna area, subject to and effective upon approval of the

Exhibit A2

same by the California Coastal Commission.

Section 3. The City Council certifies that the amended Local Coastal Program is intended to be carried out in a manner fully in conformity with the California Coastal Act.

Section 4. The City Council adopts Negative Declaration 93-03 based on the finding that the project will provide biological resource and significant watercourse information for the South Laguna area, consistent with what has been provided for other areas of the City and that the project will have a beneficial impact on the environment and is without significant adverse environmental impacts.

ADOPTED this 14th day of September, 1993.

Linda Lenney
Mayor

ATTEST:

Verna L. Rollinger
City Clerk

I, VERNA L. ROLLINGER, City Clerk of the City of Laguna Beach, certify that the foregoing resolution was duly adopted at a regular meeting of the City Council of said City held on September 14, 1993, by the following vote:

AYES:	COUNCILMEMBERS:	Gentry, Blackburn Peterson, Christoph and Lenney
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None

Verna L. Rollinger
City Clerk, City of Laguna Beach, CA

Exhibit A 3

TOPIC 8: VEGETATION AND WILDLIFE RESOURCES

Background: Vegetation and wildlife within previously undeveloped areas are particularly vulnerable to human intrusion which disrupts, fragments or destroys native plant communities and wildlife corridors and habitats. Increased awareness of this vulnerability has made the protection of natural vegetation and wildlife habitats a major component of this element. There are nearly 2,450 acres of undeveloped land within the hillsides of Laguna Beach. These lands provide a variety of habitats for numerous plant and wildlife species. In order to determine the value and location of these habitats, the City Council in October 1982 commissioned a citywide biological resources inventory. Later studies were commissioned in 1991 and 1992, respectively, for the South Laguna and Laguna Canyon areas following their annexation into the city. These studies entailed four principal tasks:

1. The identification and description of major community open space lands and watershed areas.

2. A comprehensive inventory of biological resources, including vegetative communities and associations and fauna species and habitats.

3. The identification of sensitive plant and animal species and associated habitats, including rare and endangered species.

4. The determination of levels of significance; (i.e., low value vs. high value).

The inventories involved comprehensive in-the-field inspections of the community's open space areas. As a result of the inventories, biological resource value maps have been prepared for the Laguna Beach area. The Biological Value Maps are based on the habitat integrity and extent, faunal use, and presence of endangered, rare or locally unique biota. In addition, the maps establish a value ranking system for habitats within the City, as summarized below.

> Low Value Habitats. These habitats are typically disturbed, impacted sites, often dominated by adventive grasses and domestic plants that have become established in natural areas, and are usually highly fragmented by, or are contiguous to, urban development. Although they may have value, they are isolated and not linked to other habitats. The sites are biologically simplified and are of low faunal carrying capacity. Low value habitats do not possess biological constraints to urban development, but may, if developed, be areas where spillover impacts adversely affect contiguous higher value settings.

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1-96

Exhibit B,

Moderate Value Habitats: These sites may contain either native vegetation of a specific community type, or ornamental species in a setting providing horizontal and vertical structural diversity. The sites are usually, however, limited in area and are contiguous to urban development. Thus, their faunal carrying capacity, and often, native floral species diversity, is lower than that of the high value habitats described below.

High Value Habitats: These are extensive areas dominated by indigenous plant communities which possess good species diversity. They are often, but not always, linked to extensive open space areas, within or outside of the City, by traversable open space corridors. Their faunal carrying capacity is good to excellent; many areas are utilized as bedding and foraging sites by mule deer, or possess large resident populations of birds or native small mammals.

Also included in this category are locales of southern maritime chaparral ~~maritime desert scrub and ceanothus chaparral~~, whether extensive or fragmented, because of the locally unique character of this community.

Very High Value Habitats: These include the habitats of endangered, rare or locally unique native plant species. Also included are areas of southern oak woodland and natural (not irrigation augmented) springs and seeps. Among the very high value habitats inventoried are areas of significant rock outcrop exposures, because of the assemblages of sensitive plant species that often occupy such settings.

In addition to the Biological Resource Values Maps, a summary of the types of biotic communities found throughout Laguna, along with brief descriptions of the habitat characteristics, can be found in Table 3-3. The general biotic categories include coastal sage scrub, chaparral, grasslands, south oak (or coastal live oak) woodland, riparian brushland, xeric cliff faces, barrens and marine terrace, rock outcrops, coastal bluff scrub, coastal strand, and urban forest.

The South Laguna Biological Resource Inventory completed in January 1992 is the most recent and comprehensive study of the South Laguna area. A number of earlier reports, completed prior to 1980 and now on file in the Department of Community Development, were used in the preparation of the South Laguna Specific Plan/Local Coastal Program; this document was incorporated into the Laguna Beach land use regulations in 1989 following annexation of South Laguna.

The Laguna Canyon biological study completed the inventory process on all open spaces of substantive size within existing city

Exhibit B

TABLE 3-3

HABITAT CHARACTERISTICS
OF LAGUNA BEACH

HABITAT	TYPICAL LOCATION	VEGETATION	WILDLIFE
Coastal Sage Scrub	Well-drained slopes and hills	CA sagebrush, CA buckwheat, sages, tall perennial grasses, deciduous & evergreen woody shrubs, herbs & low grasses	Lizards, CA gnatcatcher & other birds, small mammals, fox, coyote & mule deer
Chaparral:			
Sumac-Toyon southern mixed	North-facing slopes of canyons	Lemonadeberry, toyon & other woody evergreen shrubs, understory of lower growing shrubs, ferns & grasses	Snakes, lizards, salamanders, small mammals & birds such as wrentit
Southern maritime	maritime slopes (occurrence in Orange County almost exclusively limited to South Laguna, a northern outpost for Baja CA/San Diego County species)	noted for distinctive subtypes of chaparral, including bush rue-spiny redberry scrub, a mixed mesic association, San Diego chamise & ceanothus chaparral	Orange throated whiptail & other reptiles, small mammals & birds
Grasslands	Small islands adjacent to coastal sage scrub; extensive on DeWitt ridge	Native & introduced grasses, wildflowers, forbs & semiruderal elements; native grasslands are a sensitive habitat	Lizards & snakes, prairie songbirds & raptors, mice, ground squirrels, coyotes, rabbits, skunks, mule deer
Southern Oak Woodland (Coast Live Oak Woodland)	Major canyon bottoms	Coast live oak, Engelmann hybrid oak, shrubs, ferns, herbs and grasses. Savannah openings with native grasses, wildflowers	Salamanders, reptiles, woodpeckers, cavity nesting & insectivorous songbirds, owls, hawks, small mammals & mule deer

Exhibit B 3

TABLE 3-3 (CON'T.)

HABITAT	TYPICAL LOCATION	VEGETATION	WILDLIFE
Riparian	Adjacent to streams & natural drainage courses; prime examples in Laguna, Mathis Canyons	Sycamores, willows, elderberry, mulefat thickets; naturalized & escaped horticultural shrubs, forbs & grasses in urban canyons (e.g., Bluebird)	Fish, salamanders, frogs, turtles, wetland birds, racoon, weasel, fox & skunk; Norway rat in urban canyons
	Higher wildland tributaries	Chaparral brush, thickets of giant rye grass	
	Deep canyons (e.g., Mathis)	Oak woodland	
Freshwater Marsh, Fen, Swale, Aquatic	Canyon corridors (Laguna & Aliso Canyons)	Rushes, sedges, cat-tails, grasses, yerba mansa, willow tree clusters, other wetland vegetation & submerged & floating aquatic plants	Fish, salamanders, toads, frogs, & wetland birds
Southern Hardpan Vernal Pool & Fresh-water Seep	Ridgelines, hill-tops & flanks of a marine terrace	Grasses & ferns, edge seeps, specialized vernal pool herbs; edge pools	fairy shrimp, ostracods, Pacific treefrogs, spadefoot toads possible
Xeric Cliff Faces, Barrens and Marine Terrace Sandy Openings, Rock Outcrops	Upper slopes, ridgeline cap-rock areas	Edge shrubs, tall forbs, moss, ferns, low growing herbs, succulents and grasses	Sand insects, snakes, silvery legless, Orange throated whiptail & other lizards, turkey vultures, swallows, ravens, & small mammals possibly incl. Pacific pocket mouse, coyote, mule deer

Exhibit B 4

TABLE 3-3 (CON'T.)

HABITAT	TYPICAL LOCATION	VEGETATION	WILDLIFE
Mesic Cliff Faces	North-facing Slope (Aliso Canyon Gorge, Big Bend of Laguna Canyon, Bonn Drive Canyon)	Laguna Beach dudleya & other succulents, mosses & lichens	Amphibians, raptors, ravens
Maritime Succulent Scrub	Bluff & canyon slopes; often admixed with coastal sage scrub or chaparral	Oracle, prickly pear & cholla cacti, tender-leaved, suffrutescent shrubs such as Calif. encelia and bladderpod	Lizards, snakes, birds and mice; prime habitat for cactus wren & desert woodrat
Maritime Bluff Scrub	Seabluffs	Coastal cholla, prickly pear, boxthorn, cliff spurge, sealettuce & lance-leaved dudleyas	birds & ground squirrels
Salt Marsh	Aliso Lagoon	Pickleweed, fleshy jaumea, bulrush	tidewater goby (extirpated) wetland birds
Coastal Strand	Undisturbed duneland. May be extirpated.	Prostrate succulent herbs: beach bur, sand verbena, beach evening	Globose dune beetle, other insects
Urban Forest	Open space within developed portions of the City; along stream channels; at interface of urban & wildlands; undeveloped slope and watershed	Horticultural trees & shrubs, primarily eucalyptus, acacias & pines	Salamanders, slender alligator lizard, finches, sparrows, doves, mockingbirds, starlings, jays and crows, striped skunks, raccoons, opossum, Norway rat

Source: Laguna Beach Biological Resources Inventory, October 1982
Sycamore Hills Biological Resources Inventory, June 1983
South Laguna Biological Resources Inventory, January 1992
Laguna Canyon Biological Resources Inventory, May 1993
City of Laguna Beach

Exhibit B

boundaries. The major portion of the Laguna Canyon Annexation study area is to be incorporated into the Laguna Coast Wilderness Park and will be preserved as permanent open space. A number of sensitive plant and animal species have been found in this study area; perhaps the most important in terms of extent of cover and/or numbers are many-stemmed and Laguna Beach dudleya, the orange-throated whiptail and the coastal cactus wren. The inventory also identified Laguna Creek as a habitat resource.

Two remaining regions of the City containing open space that have not been inventoried are the beachfront, including the marine, littoral and some undeveloped uplands beyond tidal reach, and the long, narrow strip of incorporated land on the Irvine Ranch immediately west of Laguna Canyon Road.

The combination of abrupt topography, unique bedrock formations and soils development creates an environment for regionally unique plant communities and rare and endangered plant species, including a semi-tropical concentration of disjuncts and range-edge populations of species and plant communities which otherwise occur to the south of Orange County.

Coastal sage scrub and chaparral are widely distributed throughout the city's open space; but it is in the South Laguna hills where both types of biotic communities are found in profusion. The distribution of these communities is dependent upon microclimatc variations within the area. Ridge tops and south-facing slopes predominantly support coastal sage scrub. Both the California gnatcatcher and the coastal cactus wren, characteristic component species of the coastal sage scrub community, have been sighted in the Laguna Beach area. Canyon bottoms and north-facing slopes, with a cooler and more humid environment, predominantly support chaparral. Southern maritime chaparral, the most regionally significant and most widespread of Laguna's biotic communities, extends from Juanita Canyon to the west slope of Salt Creek Canyon in Laguna Niguel and has developed several distinctive subtypes.

The effects of the close proximity of the ocean and existence of cool micro-climate pockets have allowed the occurrence of many species typically found at higher elevations. Some of the species that occur in great abundance in Laguna's canyons are not found anywhere else in the region. Relatively humid conditions and the lack of recent fires have allowed the vegetation to achieve a state of very vigorous growth. Some species that normally grow four to six feet high reach as much as ten feet in Laguna.

Several areas contain High Value and Very High Value habitats of significant extent: the Sycamore Hills, the Big Bend of Laguna Canyon, the Wood/Mathis Canyon watershed, Canyon Acres Canyon, the Rancho Laguna watershed, upper Bluebird Canyon, Rimrock Canyon, Alexander Canyon, Hobo Canyon, Aliso and Ceanothus Canyons, Aliso Peak, Badlands Canyons, Lower Aliso Creek and the Binion slopes.

Exhibit B 6

Hobo Canyon, particularly its surrounding ridges, including the Moulton Meadows marine terrace and the continuous south-facing slope of Aliso Canyon down to the golf course, is the single-most significant habitat block in Laguna. The area is rich in rare, threatened and endangered species and unique habitats. The largest extant U.S. population of big-leaved crownbeard occurs here, along with possibly the largest population in existence of the city endemic Laguna Beach Dudleya. The Dudleya populations of the Aliso Canyon slope are also significant for the coincidental occurrence and hybridization of four species including this rare species that occurs only in this area of Orange County, a second species at the northernmost reach of its range, a third species that has twice the chromosomes of the others, and a fourth, common variety of Dudleya.

The High Value and Very High Value habitat is especially extensive in South Laguna. The open space functions as more of an ecological unit here than in much of the rest of the city, and, although impinged upon to a greater or lesser degree by urbanization, the vast bulk of it is sensitive.

Issue Identification and Analysis: Protection or preservation of sensitive wildlife and vegetative habitats is a primary function of the community's open space system. The ~~recent~~ biological assessments of the City's vacant hillsides provide perhaps the most significant data resource for the City's Open Space and Conservation Element and for achievement of the preservation and protection of these areas. Prior to the completion of these assessments, a comprehensive evaluation of the community's open space lands had never been compiled. This comprehensive inventory of the community's wildlife and vegetative resources enables the City to identify those areas which may be environmentally significant or sensitive, based upon the quality, diversity and uniqueness of a species or habitat.

The Biological Values Map in particular is an important resource map for open space preservation because it identifies and ranks open space habitats within the City. Of the four different values attributed to the City's open space habitats, High Value and Very High Value habitats are the most sensitive. The High Value habitats are dominated by a diversity of indigenous plant communities and wildlife disperson corridors and are usually linked with open space areas outside the City. The Very High Value rank, however, represents the most significant and sensitive open space in Laguna Beach; these are areas that are likely to experience the most impact from urban development. Rare or endangered plant species included in this category are listed in Table 3-4.

Designation of Very High and High Value habitats alerts the City and property owner to the possible environmental sensitivity of the site. Due to the scale of the map, however, a more detailed environmental assessment may be required on a site-specific basis for properties which contain or are adjacent to these habitats.

Exhibit B-7

TABLE 3-4

ENDANGERED, RARE OR DISTRIBUTIONALLY RESTRICTED SPECIES IN THE UNITED STATES FOUND IN LAGUNA BEACH

SPECIES	LOCATION
San Diego Chamise *Adenostoma fasciculatum* var. *obtusifolium* (northern disjunct)	Hobo-Aliso Canyon ridge Ceanothus Canyon (south ridge) Badlands Canyons
Maidenhair fern *Adiantum jordanii* (local interest)	Aliso Canyon Mathis Canyon
Yerba mansa *Anemopsis californica* (local interest)	Sycamore Hills Aliso Canyon
Catalina mariposa lily *Calochortus catalinae* (CNPS listed)	Rancho Laguna watershed
Foothill mariposa lily *Calochortus weedii* var. *intermedius* (CNPS listed)	Crestview Canyon Juanita Canyon Wood Canyon (west ridge) Goff ridge Hobo-Aliso ridge Aliso Peak Badlands Canyons
Big-podded - warty-stemmed ceanothus intergrade *Ceanothus megacarpus* x *verrucosus* (regionally unique cline)	throughout South Laguna, north to San Clemente Canyon
Non-spined greenbark ceanothus *Ceanothus spinosus* var. *nov.* (local interest)	Hobo Canyon Ceanothus Canyon
San Diego mountain mahogany *Cercocarpus minutiflorus* (northern disjunct)	Hobo-Goff ridge Hobo Canyon Hobo-Aliso ridge Aliso Canyon Niguel Hill-Aliso Peak Ceanothus Canyon Badlands Canyons

Exhibit B8

TABLE 3-4 (CON'T.)

SPECIES	LOCATION
California lace fern Cheilanthes californica (montane disjunct)	Alexander Canyon
Ramona spineflower Chorizanthe procumbens var. albiflora (CNPS listed)	Sycamore Hills
Orange County Turkish rugging Chorizanthe staticoides var. chrysacantha (Orange County endemic)	Canyon Acres Big Bend (Laguna Canyon) Park Canyon Rimrock Canyon Rancho Laguna watershed Arch Canyon Porta-Fina Canyon Mathis Divide ridge Alexander Canyon-Goff ridge Hobo-Goff ridge Moulton Meadows and Hobo-Moulton ridge Hobo-Aliso Canyon ridge Sycamore Hills
Bush rue Cneoridium dumosum (northern range edge species)	Irvine Bowl Canyon Acres Park Canyon Rancho Laguna watershed Agate Canyon Diamond Canyon Crestview Canyon Crestview/Juanita ridge Arch Canyon Porta-Fina Canyon Alexander Canyon-Goff ridge Hobo Canyon Aliso Canyon Ceanothus Canyon South Laguna hillsides
Summer holly Comarostaphylis diversifolia ssp. diversifolia (CNPS listed)	Hobo Canyon Ceanothus Canyon
Water pigmy-stone crop Crassula aquatica (local interest)	Laguna Lakes

Exhibit B 9

TABLE 3-4 (CON'T.)

SPECIES	LOCATION
Western dichondra Dichondra occidentalis (CNPS listed)	Temple Hills Hobo-Goff ridge Moulton Meadows and Hobo-Moulton ridge Hobo-Aliso ridge Sycamore Hills
Ladies' fingers dudleya Dudleya edulis (local interest)	Aliso Canyon
Lance-leaved Dudleya octoploid segregate Dudleya lanceolata (regionally unique genetic form)	Aliso Canyon Gorge Hobo-Aliso ridge
Many-stemmed dudleya Dudleya multicaulis (Federal candidate)	Canyon Acres Big Bend and nearby Laguna Canyon Arch-Porta Fina Canyon Rancho Laguna watershed Hobo-Goff ridge Moulton Meadows and Hobo-Moulton ridge Hobo-Aliso Canyon ridge Sycamore Hills
Laguna Beach dudleya Dudleya stolonifera (State threatened)	Canyon Acres Big Bend Aliso Canyon Bonn Drive Canyon
San Diego barrel cactus Ferocactus viridescens (Federal candidate)	Hobo Canyon
Palmer's grappling hook Harpagonella palmeri var. palmeri (CNPS listed)	Hobo-Aliso ridge
(foliolose) lichen Hypogymnia mollis (regionally rare)	Aliso Canyon
Basket rush Juncus textilis (local interest)	Aliso Canyon Mathis Canyon branches

Exhibit B

TABLE 3-4 (CON'T.)

SPECIES	LOCATION
(foliolose) lichen Neibla cerruchoides (regionally rare)	Aliso Canyon
California adder's-tongue fern Ophioglossum lusitanicum ssp. californicum (CNPS listed)	Rancho Laguna watershed
(foliolose) lichen Parmotrema hypoleucinum (regionally rare)	Aliso Canyon
(crustose) lichen Pertusaria flavicunda (regionally rare)	Aliso Canyon
Silverback fern Pityrogramma triangularis var. viscosa (northern disjunct)	Mathis Canyon
Fish's milkwort Polygala cornuta fishiae (CNPS listed)	Canyon Acres Agate Canyon Diamond Canyon Crestview/Juanita ridge Niguel Hill
Western bracken fern Pteridium aquilinum (montane disjunct)	Big Bend (Laguna Canyon)
Maritime or coastal scrub oak Quercus dumosa (local interest)	Ceanothus Canyon Badlands Park (west)
Engelmann oak Quercus engelmannii (CNPS listed)	Hobo Canyon Aliso Canyon Big Bend (Laguna Canyon)
Spiny redberry Rhamnus crocea (regionally rare)	sporadic throughout South Laguna, north to Juanita Canyon
Coulter's matilija poppy Romneya coulteri var. coulteri (CNPS listed)	Badlands Canyons

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TABLE 3-4 (CON'T.)

SPECIES	LOCATION
Hummingbird sage Salvia spathaceae (southern disjunct)	Mathis Canyon Bonn Drive Canyon Canyon Acres
Creeping snowberry Symphoricarpos mollis (local interest)	Bonn Drive and adj. canyons Hobo Canyon Ceanothus Canyon Mathis Canyon
Jesuit flower Venegasia carpesioides (local interest)	Ceanothus Canyon Badlands Canyons Binion canyons/slopes
Big-leaved crownbeard Verbesina dissita (State threatened)	Arch Canyon Porta-Fina Canyon Alexander Canyon-Goff ridge Hobo Canyon Aliso Canyon Aliso Peak Ceanothus Canyon Badlands Canyons

Exhibit B
12

TABLE 3-4 (CON'T.)

SPECIES	LOCATION
fairy shrimp (species not identified)	Aliso-Hobo Canyon ridge - in vernal pool
Arboreal salamander Aneides lugubris (local interest)	Sycamore Hills
Western spadefoot toad Scaphiopus hammondi (CA. Species of Special Concern)	Sycamore Hills
California red-legged frog Rana aurora draytoni (Federal candidate)	Sycamore Hills
Silvery legless lizard Anniella pulchra pulchra (local interest)	Moulton Meadows Niguel Hill
San Diego horned lizard Phyrnosoma coronatum blainvillei (Federal candidate)	Sycamore Hills
Orange-throated whiptail Cnemidophorus hyperthrus (Federal candidate)	Badlands Canyons Sycamore Hills Laguna Canyon
Western whiptail Cnemidophorus tigris	DeWitt Laguna Canyon
Ringneck snake Diadophis punctatus (Federal candidate)	Sycamore Hills
Two-striped garter snake Thamnophis couchi hammondi (Federal candidate)	Sycamore Hills Aliso Canyon
Red-diamond rattlesnake Crotalus ruber ruber (Federal candidate)	Canyon Acres Laguna Canyon
Cooper's hawk Accipiter cooperi (CA. Species of Special Concern)	Bonn Drive Canyon
Sharp-shinned hawk Accipiter striatus (CA. Species of Special Concern)	Sycamore Hills

Exhibit B

TABLE 3-4 (CON'T.)

SPECIES	LOCATION
Red-tailed hawk Buteo jamaicensis (local interest)	Citywide open space
Red-shouldered hawk Buteo lineatus (local interest)	Mathis Canyon Wood Canyon
Black-shouldered kite Elanus caeruleus (CA. Fully Protected)	Wood Canyon (breeding) Aliso Canyon "
Greater roadrunner Geococcyx californianus (local interest)	Citywide (occasional)
Southwestern willow flycatcher Empidonax trallii extimus (Federal candidate)	Sycamore Hills
Coastal cactus wren Campylorhynchus brunneicapillus couesi (Federal candidate)	Aliso Canyon, Laguna Hts., (DeWitt) Laguna Canyon
California gnatcatcher Polioptila californica (Federal listed as threatened)	Aliso Canyon, Laguna Hts., (DeWitt) Laguna Canyon
Loggerhead shrike Lanius ludovicianus (Federal candidate)	Sycamore Hills Aliso Canyon
Least Bell's vireo Vireo belli pusillus (Federal listed as endangered)	Sycamore Hills (possible)
Rufous-crowned sparrow (southern race) Aimophila ruficeps canescens (Federal candidate)	Wood Canyon South Laguna hillsides
Yellow warbler Dendroica petechia brewsteri (CA. Species of Special Concern)	Laguna Lakes (breeding)
Yellow-breasted chat Icteria virens (CA. Species of Special Concern)	Laguna Lakes (breeding)

Exhibit 13

TABLE 3-4 (CON'T.)

SPECIES	LOCATION
Pacific little pocket mouse Perognathus longimembris pacificus (Federal candidate)	Moulton Meadows Niguel Hill
San Diego pocket mouse Perognathus fallax (Federal candidate)	Sycamore Hills
Longtail weasel Mustela frenata (local interest)	Aliso Creek
American badger Taxidea taxus (CA. Species of Special Concern)	Badlands Canyons
Gray fox Urocyon cinereoargenteus (local interest)	Sycamore Hills Sporadic throughout South Laguna
Mountain lion Felis concolor (local interest)	Wood Canyon (occasional)
Bobcat Lynx rufus (local interest)	Wood/Mathis Canyons (occasional)
Mule deer Odocoileus hemionus (local interest)	Wood/Mathis Canyons Hobo-Goff ridge Hobo-Moulton Meadows ridge Aliso Canyon Binion marine terrace and slopes

Sources: Laguna Beach Biological Resources Inventory, October 1982
Sycamore Hills Biological Resources Inventory, June 1983
South Laguna Biological Resources Inventory, January 1992
Laguna Canyon Biological Resources Inventory, May 1993
City of Laguna Beach

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This evaluation will be included in the development review process, and will outline the precise extent of the environmentally sensitive area and evaluate the environmental effects of development on adjacent vegetative and wildlife habitats.

The benefits resulting from the preservation and protection of the Very High Value habitats within Laguna Beach has implications reaching beyond the physical boundaries of the City. Preservation of these areas will result in the long-term enhancement of rare and endangered vegetation within the region and allow for wildlife dispersion corridors, along with bedding and foraging areas for wildlife, within and adjacent to the City.

POLICIES

8-A Preserve the canyon wilderness throughout the city for its multiple benefits to the community, protecting critical areas adjacent to canyon wilderness, particularly stream beds whose loss would destroy valuable resources.

8-B Prohibit vehicular use in open space areas, unless it is required for public health and safety, and monitor these areas to ensure enforcement of this policy.

8-C Identify and maintain wildlife habitat areas in their natural state as necessary for the preservation of species.

8-D Protect rangeland for deer population in the City; pursue such protection in areas adjacent to, but outside the City.

8-E Protect the remaining stands of native Coastal Live Oak (Quercus Agrifolia) and Western Sycamore (Platanus Racemosa) located in upper Laguna and El Toro Canyons, and in Top of the World Park as a unique and irreplaceable resource.

~~8-F~~ 8-F Environmentally Sensitive Areas (ESA's) as defined in Section 30107.5 of the California Coastal Act shall be identified and mapped on a Coastal ESA Map. The following areas shall be designated as Environmentally Sensitive Areas: those areas shown on the Biological Resource Values Map in the Open Space/Conservation Element as very high habitat value and streams on the Major Watersheds and Drainage Courses Map which are also streams as identified on the USGS 7.5 Minute Quadrangle Series and any other areas which contain environmentally sensitive habitat resources as identified through an onsite biological assessment process,

Exhibit 13
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including areas of high and moderate habitat value on the Biological Resources Values Map and areas which meet the definition of ESA's in Section 30107.5 of the Coastal Act, including streams, riparian habitats, and areas of open coastal waters, including tidepools, areas of special biological significance, habitats of rare or endangered species, near-shore reefs and rocky intertidal areas and kelp beds.

~~8-F Require detailed biological assessments for all subdivisions and fuel modification proposals located within areas designated as high or very high value on the Biological Values Map.~~
(see proposed policy 8-G)

~~8-J~~ 8-G Detailed biological assessments shall be required for all new development proposals, including all subdivisions and fuel modification proposals, located within or adjacent to areas designated as ~~Environmentally Sensitive Areas on the Coastal ESA Map~~ high or very high value on the Biological Values Map. Such biological assessments shall utilize the biological value criteria specified in the Biological Resources Inventories (1983 and 1992). ~~To protect these resources, the following shall be required:~~

~~1. No new development proposals shall be located in areas designated as "Environmentally Sensitive Areas" on the Coastal ESA Map except for uses dependent upon such resources.~~ (see policy 8-L)

~~8-J(3)~~ 8-H ~~Where~~ When development for any type of construction, including grading, is proposed on an existing subdivided parcel that is not a legal building site ~~which is otherwise developable (i.e., able to be served by utilities and access, and on slopes able to accommodate development consistent with City provision on slope density, grading, hazards, subdivision and road access),~~ and the development is consistent with all ~~other~~ policies of this Land Use Plan except for its location entirely within an identified ESA as confirmed by a site-specific assessment, the following shall apply:

a. Resource management uses including estuaries, nature centers and other similar scientific or recreational uses are permitted subject to a Conditional Use Permit to assure that uses are sited and designed to prevent degradation of the resource value; ~~or alternatively,~~

~~b. Transfer of a density bonus to another property in the vicinity able to accommodate increased density consistent with the policies of the Land Use Plan concurrent with the recordation of an open space easement or other similar instrument over the habitat area of the parcel;~~ (see

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policy 8-I(c))

~~e. Existing dwellings shall be designated as nonconforming uses but shall be allowed to be rebuilt or repaired if damaged or destroyed by natural disaster provided however, that the floor area, height and bulk of the structure not exceed that of the destroyed structure by more than 10 percent.~~

~~d~~b. No new ~~parcels~~ building sites shall be created which are entirely within a coastal ESA or which do not contain a site where development can occur consistent with the ESA policies of this Plan.

c. Very high value habitats shall be preserved and high value habitat shall be preserved to the greatest extent possible; and, mitigation measures for immediately adjacent areas shall also be required.

8-I Where development is proposed on a legal building site, as defined in the zoning ordinance, and is consistent with all other policies of this Land Use Plan except for its location entirely within an area identified and mapped on the coastal ESA map, the following shall apply:

a. Resource management uses including estuaries, nature centers and other similar scientific or recreational uses are permitted subject to a Conditional Use Permit to assure that uses are sited and designed to prevent degradation of the resource value;

b. A transfer of density may be permitted to another property in the vicinity able to accommodate the density consistent with the policies of the Land Use Plan and concurrent with the recordation of an open space easement or other similar instrument over the environmentally sensitive area of the (original) parcel; or alternatively,

c. Construction or remodeling of a single-family house will be allowed, only if the area of development or development-related disturbance is minimized and environmentally sensitive areas are protected. Mitigation will likely include protection of habitat during construction and prohibition of fencing; mitigation may also include, but is not limited to, enhancement of existing, offsite degraded habitat and/or provision of an on-site biologist during the construction process.

d. Existing dwellings may be rebuilt in-kind, if destroyed by natural disaster.

Exhibit B

8-J. Encourage applicants to utilize the density transfer process by granting a density bonus in conjunction with the density transfer in order to protect an environmentally sensitive area that would otherwise be developed. If appropriate, such density transfer should incorporate the concept of clustering on the receiving site to minimize impacts of the density bonus.

8-K* When subdivision ~~or fuel modification~~ proposals are situated in areas designated as high or very high value on the Biological Values Map and where these are confirmed by subsequent onsite assessment:

a. Require maximum preservation possible of the ~~that the~~ high value habitats ~~be preserved to the greatest extent possible~~ and when appropriate, require that mitigation measures be enacted for immediately adjacent areas.

b. Require preservation of the ~~that the~~ very high value habitats ~~be preserved~~ and, when appropriate, require that mitigation measures be enacted for immediately adjacent areas.

c. Create no new building sites ~~parcels shall be created~~ which are entirely within a coastal ESA or which do not contain an area where development can occur consistent with the ESA policies of this Plan.

8-L Except as otherwise provided in Policies 8-H, 8-I, and 8-K, no development proposals shall be located in areas designated as "Environmentally Sensitive Areas" on the Coastal ESA Map except for uses dependent upon such resources.

~~8-J(2)~~ 8-M. When new development proposals are situated in areas adjacent to ~~areas designated as~~ "Environmentally Sensitive Areas" as designated on the Coastal ESA Map and where these are confirmed by subsequent onsite assessment, require that development be designed and sited to prevent impacts which would ~~significantly~~ degrade such areas.

*note: proposed policy 8-K combines previous policies 8-G, 8-H and 8-J(3)(d)

Exhibit 9

~~8-K~~ 8-N ~~As a condition of new development in South Laguna, require the identification of environmentally sensitive areas, including chaparral and coastal sage scrub. Intrusion into these areas for wildlands fuel modification programs should not be permitted.~~ Prohibit intrusion of fuel modification programs into environmentally sensitive areas, including chaparral and coastal sage scrub.

8-L 8-O Preserve and protect fish and/or wildlife species for future generations.

~~8-M~~ 8-P Preserve a continuous open space corridor within the hillsides in order to maintain animal migration opportunities.

~~8-N~~ 8-O Encourage the preservation of existing drought-resistant, native vegetation and ~~encourage~~ the use of such vegetation in landscape plans.

~~8-O Map environmentally sensitive areas in South Laguna and include these areas on City maps. (ESA and Biological Resources Map).~~

8-R Identify development projects situated in or immediately adjacent to high or very high value habitat in documentation accompanying any Design Review Board application.

Exhibit B
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TOPIC 9: WATERSHEDS AND WATERCOURSES

Background: A watershed is an area that collects rainfall, and is generally defined as separating two or more drainage systems. The rainfall captured within a watershed flows from the highest boundary of the drainage area downhill where it eventually collects into clearly defined watercourses and channels. To qualify as a watercourse, the feature must include a streambed, banks, a channel and periodic although not necessarily contiguous flows. A watercourse is thus one distinctly different component in the overall watershed, and serves to convey runoff that falls within the watershed. Laguna Beach supports 17 major watersheds and many smaller more localized drainage areas. The characteristics of these watersheds are described in Table 3-5. In addition, the attached maps entitled "Major Watersheds and Drainage Courses" denotes their physical boundaries. Larger regional watershed areas are also delineated in the Major Watersheds & Drainage Courses Maps.

Through the process of erosion, the water flowing from the upper boundaries of the watershed to its point of confluence with another stream or to its point of disposal in the ocean creates landforms. If this down-cutting action is intense, a channel may create a canyon, the sides of which are composed of cliffs or series of cliffs rising from its bed. Gentler erosive action within the watershed may produce less dramatic topographic relief, and instead form a valley in the form of a hollow or low-lying land bounded by hills or mountain ranges.

In Laguna Beach, such conditions have combined to form a striking geomorphic locale that provides dramatic changes in relief in the form of ridgelines, canyons and valleys that are quite steep in relationship to each other. This can produce a sometimes volatile runoff condition. The combination of a relatively shallow soil profile, rocky exposures and steep slopes that accelerate the flow of water, reduce the amount of infiltration and ponding, and can produce high rates of runoff.

Rapid conveyance of runoff in Laguna Beach can place exceptional demands on downstream storm drain improvements, especially those constructed during the earlier urbanization of the coastal shelf between the 1920's and late 1950's. In many cases, these facilities were sized without consideration to future upstream development, or changes in the cycle of rainfall characteristics. For example, the average annual rainfall in 1940 was 7.1 inches, or approximately one-half of that experienced during more recent times.

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Exhibit C,

TABLE 3-5

CHARACTERISTICS OF MAJOR WATERSHEDS

	Watershed	Area In Acres	Vert. Relief In Feet	Length In Feet	Gradient Av.in %	Flow C.F.S*
1.	Irvine Cove	107	600	4,000	15.0	131
2.	Boat Canyon	328	780	10,000	7.8	343
3.	Irvine Bowl Cyn	220	600	7,500	8.0	224
4.	Laguna Canyon	5760	445	33,750	1.3	3198
5.	Wood Canyon	2752	400	20,000	2.0	1066
6.	Canyon Acres	295	930	6,200	15.0	442
7.	Hidden Valley Cyn	330	940	9,000	10.4	468
8.	Rimrock Canyon	242	730	6,400	11.0	329
9.	Bluebird Cyn	314	692	5,800	11.9	444
10.	Lower Bluebird	642**	610	10,800	5.7	754
11.	Diamond Cyn	95	610	3,800	16.0	169
12.	Arch Beach Cyn	223	810	5,200	15.6	286
13.	Area 1 (Hobo Cyn)	418	805	8,422	9.6	716
14.	Area 2 (Aliso Creek)	322	770	7,950	9.7	345
15.	Area 3 (Ceanothus Cyn)	163	689	4,913	14.0	449
16.	Area 4 (Badlands Cyns)	250	440	3,105	14.2	691
17.	Area 5 (Three Arch Bay)	131	320	2,707	11.8	352

* Cubic Feet per Second, 10-Yr. Storm
** Includes 8 & 9

Source: City of Laguna Beach Master Drainage Plan, July 1982
South Laguna Beach Master Drainage Plan, April 1993

Exhibit C_2

In addition, the construction of impervious surfaces, such as streets, driveways and roofs, reduces the area of soils available for absorption of rainfall and consequently increases the concentration of runoff. The demand for urban land has also resulted in the placement of structures in and adjacent to flood-prone areas, thereby exacerbating the potential for flooding and property and environmental damage, as well as repair and maintenance liabilities. As development in the City has increased, these problems have worsened accordingly.

Issue Identification and Analysis: The City has increased its efforts to protect watershed areas and natural watercourses during the last decade, particularly since adoption of the first Open Space and Conservation Element to the General Plan. There are several reasons for this interest: disturbance of these lands may create hazards such as flooding and mudslides, destroy important public resources such as water supplies and water quality, or damage valuable habitat lands and ecological systems. Any of these events could threaten the general welfare of a community and result in economic loss. The direct costs of not protecting these areas can be high, affecting both property owners and government interests. These costs may include the reduction of property values, the actual destruction of property or the repair or installation of expensive storm drain systems and related public facilities.

Significant natural watercourses in the community were mapped and officially recognized when the City Council adopted an "Environmentally Sensitive Areas Map" in 1974. The map, which was prepared using aerial photographs, topographic maps and individual site analysis, records not only watercourses, but also earthquake faults, major landslide areas, open space preserve areas and sensitive coastal properties. ~~These watercourses are generally depicted on the attached map entitled "Major Watersheds and Drainage Courses".~~ Later, following the annexation of South Laguna, an Interim Significant Watercourse Map for the South Laguna area was prepared using aerial photographs, topographic maps and field checks; this Map was adopted in 1991 for use until the significant watercourse designation could be adopted on a permanent basis. This map is now integrated into the attached Major Watersheds & Drainage Courses Map.

Environmentally sensitive watercourses are defined in the City's Municipal Code as those which "serve a distinct functional, scenic or ecological purpose in their natural condition and setting and which are shown on the Environmentally Sensitive Areas Map". Development projects which encroach into watercourses designated on the Environmentally Sensitive Areas Map are subject to a special review process and detailed design standards, including site planning requirements, setback provisions and architectural review. Significant natural watercourses and watershed conditions for

Exhibit C 3

Laguna Beach appear on the maps entitled ~~"Landforms and Hydrology"~~ "Major Watersheds and Drainage Courses."

Because some past urbanization has resulted in drainage problems, construction of remedial flood control works is needed in many areas. In response to the need for an upgraded drainage system, the City adopted a Master Plan of Drainage in 1982 which identifies the need for 6.6 million dollars worth of facilities citywide; approximately 40% of the identified improvements were completed by 1993. A Master Plan of Drainage was also prepared for the South Laguna Area in 1993 which identifies the need for 6.25 million dollars in drainage improvements. The implementation of ~~the~~ both plans, however, is dependent upon the pace of future development and subdivision activity, and cannot be considered as the only solution to drainage needs. Due to the high cost of these facilities, comprehensive storm water management planning must integrate engineered flood control works with other considerations such as source control, use of natural drainage amenities and watershed management.

The utilization of various government programs, policies and development standards affords an opportunity to protect both the natural and urban environment from the damaging aspects of runoff. However, it must be recognized that runoff management programs have inherent limitations:

Providing protection against any given event, e.g. against the worst storm water runoff of record, does not guarantee that a greater runoff event will not occur;

Since rainfall quantities, especially for localized, high-intensity storms, cannot be accurately predicted, drainage system design must rely on historical observation and experience;

The goal of requiring post-development levels or runoff not to exceed pre-development levels is rarely fully attainable in a hillside environment due to insufficient storage capacity for peak flows;

Providing protection against a 100-year storm event does not guarantee protection against a lesser frequency, i.e. 10 or 25-year storm event, since the rainfall producing this 100-year flood may be of much longer duration and lower average intensities than that producing the 10-year storm drain design peak.

Although the City has adopted a policy of protecting natural drainage courses, recent evidence suggests that this policy may sometimes need to be modified in order to protect and maintain the stability of improved property. One of the causative factors of the Bluebird Canyon landslide that destroyed 24 homes in 1978 was

Exhibit C4

the down-cutting of the natural stream bed, which removed the toe support of an ancient landslide, thereby contributing to its reactivation. Similar conditions to those found in Bluebird Canyon exist throughout the region. In those areas that are developed and found to have documented evidence of down-cutting that endangers life and property, engineered solutions may have to be implemented in order to achieve an acceptable level of safety.

A series of issues raised during the preparation of the South Laguna Specific Plan may be applied to all of Laguna Beach. Primary concerns related to protection of drainage channels, streams, sensitive areas and also protection of downhill development from the effects of increased urban-related runoff. Specific issues focused on the following planning issues: erosion control and related siltation; protection of habitat values; protection of water resources from the effects of sedimentation; and development of a drainage control plan linked to an overall watershed-wide management objective.

As recommended in the South Laguna Specific Plan, it is important that runoff management programs for hillside development limit peak adverse runoff flows to the same or less than existing conditions. This is particularly important where runoff generated by uphill development outside city limits is received by downstream development located in the city. In recent years, city residences have been damaged from flooding and mud flows because of inadequate runoff management practices related to the uphill development.

The runoff plan should integrate drainage studies, preliminary engineering designs and methodologies as well as the findings of biologists into a mitigation program. Specific runoff control measures should be incorporated into the management plans and include, but not be limited to: grading design for drainage; canyon preservation; diversion of runoff exceeding natural flows to street storm drains; and landscaping/erosion control. Other runoff controls can include the installation of energy dissipators to diffuse runoff, and the creation and maintenance of catch basins.

Summary: The hydrologic effects of urban development upon natural and man-made systems requre careful analysis and study based upon individual development characteristics and their relationship to the watershed. Due to the wide range of assumptions and conditions that affect the results of these studies, local policy can be instrumental in attaining consistency and an acceptable level of risk.

Exhibit C

POLICIES

9-A Promote the preservation and restoration of Laguna's natural drainage channels, freshwater streams, lakes and marshes to protect wildlife habitat and maintain watershed, groundwater and scenic open space.

9-B Prohibit filling and substantial alteration of streams and/or diversion or culverting of such streams except as necessary to protect existing structures in the proven interest of public safety, where no other methods for protection of existing structures in the flood plain are feasible or where the primary function is to improve fish and wildlife habitat. This provision does not apply to channelized sections of streams without significant habitat value.

9-C a. Streams on the Major Watershed and Drainage Courses Map which are also streams as identified on the USGS 7.5 Minute Quadrangle Series, shall be identified and mapped on the Coastal Environmentally Sensitive Areas Map of the Land Use Plan. For all these streams, a minimum setback of 25 feet from the top of the stream banks shall be required in all new developments. A greater setback may be necessary in order to protect all riparian habitat based on a site-specific assessment. No disturbance of major vegetation, or development, shall be allowed within the setback area. This provision shall not apply to channelized sections of streams without significant habitat value. Where development is proposed on an existing subdivided lot which is otherwise developable consistent with all City ordinances and other policies on this Plan except that application of this setback would result in no available building site on the lot, the setback may be reduced provided it is maintained at a width sufficient to protect all existing riparian habitat on the site and provided all other feasible alternative measures, such as modifications to the size, siting and design of any proposed structures, have been exhausted.

b. Require a setback of a minimum of 25 feet measured from the centerflow line of all natural drainage courses other than streams referenced in 9-C(a) above. Such setback shall be increased upon the recommendation of the city engineer and environmental planner through the environmental review process. However, a variance may be given in special circumstances where it can be proven that design of a proposed structure on an affected lot will preserve, enhance or restore the significance of the natural watercourse. At no time shall grubbing of vegetation, elimination of trees, or disturbance of habitat be allowed within the setback area before or after construction.

Exhibit C 6

9-D Permit extensions of decks and other portions of a structure within the required setback for significant natural drainage areas only if:

a. There are no supports to the ground within the setback areas;

b. The extensions do not encroach closer than fifteen feet from the centerline of flow.

9-E Require Design Review for development projects which include portions of a natural drainage course.

9-F Where possible, require restoration of deteriorated significant natural drainage courses that have been disturbed by development, but which retain potential for natural function.

9-G Develop standards for maintenance of free and adequate flow in natural drainage channels.

9-H Coordinate, wherever possible, natural and man-made drainage structures so that natural channels will contribute to transport a volume of runoff equal (or as close as possible) to that which would have occurred if the project watershed were in its natural condition before development.

9-I Require new development projects to control the increase in the volume, velocity and sediment load of runoff from the greatest development areas at or near the source of increase to the greatest extent feasible.

9-J Require new developments to maintain runoff characteristics as near as possible to natural discharge characteristics by maintaining the natural conditions of the watershed.

9-K Promote preservation and enhancement of the natural drainage of Laguna Beach.

9-L In conjunction with the County of Orange, prepare a flood control plan and program of implementation for Laguna Canyon and all tributaries, pending funding availability.

9-M Where feasible, require flood control programs to incorporate non-structural methods, such as preservation of watershed lands and natural drainage channels, rather than structural methods such as concrete flood channels and engineering works. In cases where structural methods are necessary, drainage structures shall be invisible conveyances, undergrounded and revegetated to camouflage any disturbance created during construction in order to provide the least damaging environmental alternative possible.

Exhibit C 7

9-N Notify ~~Encourage~~ private property owners on how to inspect and maintain private drainage structures, particularly before the rainy season and during heavy storms.

9-O Provide ~~Investigate methods of establishing and maintaining~~ debris collection devices at suitable locations in the major canyon areas prior to the rainy season~~, pending funding availability~~.

~~9-P Promote the expenditure of capital improvement funds for debris collection devices.~~

9-~~O~~P Oppose new development within the City's surrounding areas that would result in significant adverse impacts to the City's hydrology.

9-~~R~~Q Periodically review the City Master Plan of Drainage to ensure it promotes the objectives of the City's General Plan.

9-~~S~~R Erosion control measures shall be required for new development in areas designated Hillside Management/Conservation, as specified in Title 22 of the City's Municipal Code for properties adjacent to the Aliso Greenbelt. No grading, trenching or similar activity shall be permitted within Aliso/Wood Canyon Watershed during the rainy season from October 1 to April 1.

9-~~T~~S All graded areas shall be planted and maintained for erosion control and visual enhancement purposes. Use of native plant species shall be emphasized.

9-~~U~~T Restore and retain Aliso Creek in a natural state and protect the Creek from infringement of new development.

9-~~V~~U Protect Aliso Canyon Area from any increase in flow which might have adverse impacts on the water quality in Aliso Creek and prevent excessive erosion and sedimentation and emphasize the prevention of siltation from adversely impacting the South Laguna Marine Life Refuge.

9-~~W~~V Actively work with the County on approval of Aliso Viejo Drainage Plan to ensure the integrity of water quality in Aliso Creek.

Exhibit C 8

TOPIC 15: CONSTRAINT MAPPING

Background: The undeveloped hillside terrain in Laguna Beach often presents conditions that make it difficult and expensive to build. The conditions vary from site to site, but can include steep and unstable slopes and other geologically unstable areas, sensitive habitat and wildlife migration corridors, natural drainage courses, significant land forms, including rock outcroppings and ridgelines, and hillside trails and view corridors.

Issue Identification and Analysis: During the development review process, existing conditions are often reviewed independently of each other. For example, view corridors and existing vegetation may be indicated on the site plan for design review, but the actual geological and hydrological conditions are often not fully evaluated until later in the review process when a geotechnical report is submitted as a part of the building plan check. Consequently, decisions about site development are made without a synthesizing of site constraint information.

The carrying capacity of a site is directly related to the degree of site constraints. The carrying capacity can be defined not only as the amount of density, but also the building location and size, number and location of accessory structures as well as areas of disturbance due to grading or installation of infrastructure and landscaping. It is through examining the ability of the land as defined by its geology, soils, topography, sensitive habitats, and other resources such as important landforms and view corridors, that the carrying capacity can be determined. The underlying assumption is that the natural evironment has a limited ability to withstand different types of intensities of use; some areas are more suited for development than others, and it is through an analysis of the carrying capacity that new development can be accomplished with maximal safety benefits and minimal environmental impacts.

A constraint analysis which is prepared early in the development review process will provide information to the decision-makers about the carrying capacity of the site. Such a constraint analysis should consider the topography, drainage, soil stability, rock outcroppings, trees, accessibility, public/private view corridors, high and very high value habitats, and wildlife migration corridors as well as any other significant aspect of the site. A constraint analysis shows the location of these types of features through the use of graphics or acetate overlays on the site plan; the end result is that the most developable portion of the site is identified.

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LCP Am. 1-95
Exhibit D

POLICIES

15-A Require a constraint analysis as a part of the discretionary review process for tentative maps and the creation of new building sites.

15-B Require the constraint analysis to consider pertinent environmental features of the site such as, but not limited to, topography, drainage, soil stability, rock outcroppings, major ridgelines, accessibility, public/private view corridors, high and very high value habitats and wildlife migration corridors; to identify, after consideration of these features, the most developable portion of the site; and to provide a ranking, if necessary, when there are multiple and competing environmental features.

15-C Require a constraint analysis for existing building sites where Design Review Board approval is required and there are multiple significant environmental constraints.

Exhibit D_2

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Exhibit
E

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Exhibit
F

anyon Biological Resource Values

Laguna Canyon

August 29, 1996

Charles Damm
South Coast District Director
California Coastal Commission
P.O. Box 1450
Long Beach, CA 90802-4416

Dear Mr. Damm:

Enclosed is a request for an LCP Amendment to amend a portion of the City's Open Space/Conservation Element which is a component of our Coastal Land Use Plan. This proposed Amendment will provide biological resource information for the South Laguna and Laguna Canyon areas which were annexed to the City in recent years.

This submittal was previously reviewed by the Coastal Commission staff as Local Coastal Program Amendment 1-95. However, based on concerns related to the suggested modifications, the application was withdrawn by the City prior to the public hearing scheduled with the Coastal Commission for May 8, 1996. Subsequently, on June 18, 1996, the City Council reviewed the suggested modifications and directed staff to resubmit the LCP application without modification.

The focus of the City's concern is directed at the suggested modification to Policy 8-L. Implementation of this modification seems likely to result in complex review procedures for the purpose of determining the level of development appropriate to the property owner's "reasonable investment-backed expectations". In addition, because the suggested modification appears to shift responsibility for a "takings" determination from the courts to the local agency, there may be unanticipated legal ramifications.

Therefore, the resubmittal consists of the following:

1. Description of the LCP Amendment

As proposed (and previously submitted), the Amendment modifies the Open Space/Conservation Element Element in order to update the Biological Resource Values Map, the Major Watersheds & Drainage Courses Map, and related text by incorporating biological and watercourse information for the South Laguna and Laguna Canyon Annexation Areas. More specifically, Topic 8 (Vegetation and Wlidlife Resources) and Topic 9 (Watersheds and Watercourses) of the Open Space/Conservation Element will be updated with the new information.

In addition, the Amendment proposes a reorganization of the Topic 8 policies as well as the addition of new policy language. Under this reorganization, the proposed changes to policy

Laguna Beach LCP Am. 1-96 Exhibit G

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 Submittal letter

language are generally not substantive. However, in addition to the non-substantive changes, the City is proposing a provision under (new) Policy 8-I that would allow construction of a single-family house on a legal building site located within an Environmentally Sensitive Area (ESA) provided certain mitigations are required.

The significance of the revised Topic 8 policies is that a distinction is made between a parcel of land and a legal building site. In most communities, there is no such distinction; however, the Zoning Code for Laguna Beach defines a legal building site as one that is legally subdivided, complies with zoning requirements, and maintains frontage on a street improved to city standards or approved accessway. Therefore, a site that qualifies as a legal building site is entitled to some level of development consistent with the zoning. The existing policy language in Topic 8 (specifically Policy 8-J(3)) does not allow for even the possibility of development in such circumstances. The proposed language does not require the City to approve development, even a single-family house, it only allows for the possibility of doing so should the circumstances warrant. For this reason, Policy 8-I is differentiated from Policy 8-H.

The Amendment also proposes the addition of Topic 15 (Constraint Mapping) to address the purpose of and need for constraint mapping. This new topic will provide policy guidance on when to require development constraint information as a part of the development review process.

The complete text of the proposed changes to Topics 8, 9, and 15, is attached as Exhibit A. The underlining indicates changes made in conjunction with review of the resource information for South Laguna while the highlighted (redlined) text changes relate to the Laguna Canyon resource information.

The complete text of the proposed changes to Topics 8, 9, and 15, is attached as Exhibit A. The underlining indicates changes made in conjunction with review of the resource information for South Laguna while the highlighted (redlined) text changes relate to the Laguna Canyon resource information.

II. Significant Comments Received and Local Agency Response

No significant comments were received regarding review of the biological resource information for South Laguna; however, written communication was received expressing opposition to a watercourse designation at 32172 and 32182 Coast Highway. In response to the watercourse comments, the watercourse in question was deleted from the Major Watersheds and Drainage Courses Map as indicated in City Council Resolution No. 94.006.

During review of the Laguna Canyon Annexation Area, comments were received at the public hearing regarding the location and extent of the mapped biological resource values. After investigating the concerns and field checking the map, the Biological Resource Values Map was revised. The revisions eliminated earlier mapping errors and also removed areas of ornamental plantings which were not intended to be included in high or very high value habitat. The Map was then recommended for approval by the Planning Commission and adopted by City Council.

The attached resolutions and minutes from the Planning Commission and City Council meetings,

and related staff reports, reflect the comments summarized above. See Exhibit B.

III. Public Participation Measures

As noted above, the review process was conducted separately for South Laguna and Laguna Canyon. Between April 1993 and January 1994, a total of one study session and nine public hearings were held to review the changes related to the South Laguna update. It should be noted that the South Laguna review process included review of the policy changes in Topic 8.

Subsequently, between July 1994 and November 1994, the review process for the Laguna Canyon biological and watercourse data was conducted which included four public hearings.

A listing of noticed property owners and public agencies, as well as a compilation of the public notices, is attached as Exhibit C.

IV. Relationship of Proposed LCP Amendment to the Local Coastal Program

The proposed LCP Amendment incorporates the same level of biological resource and watercourse information for South Laguna and the Laguna Canyon Annexation Area into the Open Space/Conservation Element as exists for the other areas of Laguna Beach. This is important because the Open Space/Conservation Element is a major component of the City's Coastal Land Use Plan which provides policy guidance for the review of development proposals in the coastal zone.

The Biological Resource Values Map identifies general areas of high and very high value habitat throughout the City; site specific studies will be required to ascertain specific types of vegetation and its location when development is proposed in the target areas. Appropriate steps to preserve sensitive habitat or mitigate development-related impacts will then be incorporated into the development review process.

The present policy language in Topic 8 is ambiguous and not legally defensible. The proposed changes to the policy language address those problems; the reorganized format and additional language provide improved clarity and legal defensiblility, particularly with regard to legal building sites.

The access component of the Local Coastal Program is not affected by the proposed Amendment. The Amendment does not change any Coastal Land Use Plan policies related to access and it does not change any of the Implementation Program (which includes dedication requirements to provide coastal access).

V. Environmental Review

It was determined that the proposed project is without significant adverse environmental impacts, and that the project will have some beneficial impact on the environment. Accordingly, a Negative Declaration was adopted for South Laguna on September 14, 1993 and a Negative Declaration for the Laguna Canyon Annexation Area was adopted on November 1, 1994. Copies of the Negative Declarations are attached as Exhibit D.

The above summaries, along with the attached information (which includes staff reports, resolutions, minutes, environmental review documents, public hearing notices and mailing lists), complete the LCP Amendment submittal. The Biological Resource Value Maps are attached as Exhibit E. Please let me know if you have any questions or need additional information.

Sincerely,

Kyle D. Butterwick
Director
Community Development

Attachments: Exhibit A, Text of Proposed Changes to Open Space/Conservation Element
Exhibit B, Resolutions, Minutes and Staff Reports, letter from Mr. Zanella
Exhibit C, Public Hearing Notices and Mailing Lists
Exhibit D, Negative Declarations
Exhibit E, Biological Resource Value Maps

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Exhibit G 4