

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA  
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April 18, 1997

TO: COMMISSIONERS AND INTERESTED PERSONS

FROM: CHUCK DAMM, SOUTH COAST DEPUTY DIRECTOR  
 DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO AREA OFFICE  
 ELLEN LIRLEY, COASTAL PROGRAM ANALYST, SAN DIEGO AREA OFFICE

SUBJECT: REVISED FINDINGS FOR DENIAL OF CITY OF SAN DIEGO CATEGORICAL  
 EXCLUSION E-95-1 FOR THE TORREY PINES COMMUNITY (For Public  
 Hearing and Possible Final Action at the Commission Meeting of  
 May 13-16, 1997)

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SYNOPSIS

SUMMARY OF COMMISSION ACTION

At its meeting of February 6, 1997, the Coastal Commission reviewed the proposed categorical exclusion for the City of San Diego's Torrey Pines Community, a portion of the North City LCP segment. In its action, the Commission denied the categorical exclusion request on the basis that the discretionary review offered through the coastal development permit process is necessary to assure that development is fully consistent with the certified LCP and to maintain maximum public participation in the permitting process.

Commissioners Voting "YES": Calcagno, Flemming, Rick and Staffel

Commissioners Voting "NO": Areias, Campbell, Giacomini, Pavley and Wan

SUMMARY OF CATEGORICAL EXCLUSION REQUEST

The City requested that the Commission use its authority under Section 30610(e) to exclude from permit requirements all single family residential development, and demolition of structures (which could include existing homes, as well as existing accessory structures), on land zoned R1-6000 within the area shown on Map No. C-866, on file in the Planning Department and also on file in the office of the City Clerk as Document No. 00-18153. The location of the proposed exclusion order is that part of the Torrey Pines Community known as Del Mar Heights, and is described in specific detail later in this report. The exclusion would only apply to development located within the City of San Diego's non-appealable, post-certification jurisdiction on properties not located within the Sensitive Coastal Resource Overlay Zone, and to development which complies with all the Beach Impact Area regulations of the zone. The exclusion request did not allow different uses or intensification of uses than what is currently approved in the certified Torrey Pines Community Plan. Although the proposed exclusion would eliminate the

requirement for a coastal development permit, the construction of single-family homes would still require building permits, as well as any other local discretionary permits that might apply, and most demolitions would require a demolition permit.

CEQA REQUIREMENTS AND PUBLIC COMMENTS

Pursuant to the requirements of the California Environmental Quality Act, a draft Negative Declaration was circulated for the proposed categorical exclusion order. Two comments were received from the general public and no comments were received from other State agencies; the comment period closed prior to preparation of the staff recommendation for the February Commission meeting. Responses to the two public comments were included in that report.

Additional Information

Further information regarding the proposed revised findings may be obtained from Ellen Lirley at the San Diego Area Office of the Coastal Commission, 3111 Camino Del Rio North, Suite 200, San Diego, California 92108, (619)521-8036.

I. CITY OF SAN DIEGO PROPOSED CATEGORICAL EXCLUSION ORDER

The City of San Diego has requested that the Coastal Commission exercise its authority under Section 30610(e) of the Coastal Act to identify certain categories of development within certain geographic areas as having no potential for any significant adverse effects, either individually or cumulatively, on coastal resources or public access. If the Coastal Commission exercises that authority, the identified development would be excluded from coastal development permit requirements.

- A. The City requested that the Commission categorically exclude the following developments:
1. Demolition of structures.
  2. Construction of single-family residences.
- B. In the following area, as shown on Map C-866 (attached), and generally described as follows:

The outer boundary of the area proposed for a categorical exclusion generally follows existing City streets (looping along Mango Drive, Recuerdo Drive, Lozana Road, Durango Drive, Del Mar Heights Road, Crest Way, Nob Avenue, Camino del Mar, Nogales Drive, Cordero Road, Mira Montana Drive, Del Mar Heights Road again, and El Amigo Road, back to Mango Drive). Within this overall loop, there are a few areas where the proposed categorical exclusion boundary follows property lines, the I-5 right-of-way and portions of the border between the Cities of San Diego and Del Mar.

II. RESOLUTION

Following a public hearing, the Commission adopted the following resolution and related findings:

DENIAL OF THE CATEGORICAL EXCLUSION

The Commission hereby denies Categorical Exclusion Order No. E-95-1, which would have excluded from permit requirements certain categories of development within specified areas of the Torrey Pines Community, and adopts the findings set forth below, on the grounds that the categories of development identified in the Order have the potential for significant adverse effects, either individually or cumulatively, on coastal resources or on public access to, or along, the coast. The Commission does not certify the Negative Declaration on the grounds that the Order could cause a significant adverse effect on the environment within the meaning of CEQA.

### III. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares for the following reasons, that the exclusion presents a potential for significant adverse effects, either individually or cumulatively, on coastal resources or on public access to, or along, the coast:

1. Discretionary Review/Public Participation. Prior to and during the February, 1997 Coastal Commission public hearing on the City's categorical exclusion request, concerns were raised by members of the local community and the local planning group regarding public notice and comment opportunities addressing development within the proposed exclusion area. In its exclusion request, the City proposed to provide written notice to property owners within 300 feet of a subject site any time an application was received for development which would be subject to a categorical exclusion. However, the City was unwilling to provide a formal review and comment period before the exclusion would become effective.

Several Commissioners voiced concerns about the subsequent diminishment of opportunities for public participation if the coastal development permit process were eliminated through adoption of the requested categorical exclusion. Therefore, the categorical exclusion request was denied. The Commission noted the Coastal Act's mandate to ensure and maximize public participation in both the planning and regulatory processes. In addition, the Commission recognized the inherent difficulty in trying to retain meaningful public involvement while also attempting to streamline regulatory review. However, it was determined that some means of continued public participation was necessary from a broader policy perspective; and, on the particular merits of this categorical exclusion request, it would be beneficial in enforcing and implementing the certified land use plan and ordinances to protect coastal resources and public access. Thus, interest was expressed in having all concerned parties work together to develop a means to both maintain public participation and streamline the coastal development permit process.

2. Environmentally Sensitive Habitats. 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 such resources shall be allowed within such areas.

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

The Torrey Pines Community contains, or is immediately adjacent to, a number of environmentally sensitive habitat areas, including the Torrey Pines Reserve Extension, Crest Canyon and the western portion of the San Dieguito River

Valley. The proposed physical boundaries of the categorical exclusion area generally follow existing city streets. The proposed exclusion does not apply to development that is located in or immediately adjacent to areas designated as sensitive habitat in the certified LCP. However, much of the excluded development is separated from the environmentally sensitive habitat area only by a public street.

Torrey Pines is relatively built-out. With the exception of the few remaining vacant parcels in the exclusion area, most new development will involve the demolition and reconstruction of existing single-family homes. The proposed exclusion would only apply within the existing R1-6,000 Zone, which allows for single-family residences on minimum 6,000 sq.ft. lots. This density has been approved by the Commission in the recent certification of the Torrey Pines Community Plan Update.

However, even build-out at certified densities on sites not immediately adjacent to sensitive resources can cumulatively have a negative impact on said resources by increasing impermeable surfaces and runoff, thus creating a potential for increased sedimentation in downstream resource areas. These potential impacts are currently addressed through the coastal development permit process, wherein the policies of the certified Torrey Pines Community Plan are applied, along with all relevant municipal code provisions. This process, coupled with public involvement, can, and often does, result in developments that represent less than the maximum size, bulk and lot coverage allowable under the ordinance provisions alone. This public input and oversight would be eliminated if the proposed categorical exclusion is approved. Moreover, since the exclusion order is not proposed for sites that fall under other discretionary reviews at the local level, such as Hillside Review or Sensitive Coastal Resource permits, approval of the categorical exclusion request would eliminate the only discretionary review and public forum available in most cases. Therefore, the Commission finds that approval of the exclusion order might create the potential for significant adverse impacts, either individually or cumulatively, on sensitive resources.

3. Visual Resources/Community Character. Section 30251 of the Act protects the scenic and visual qualities of coastal areas. It requires protection of views to and along the coast, minimization of the alteration of natural landforms and protection of community character. The category of development proposed to be excluded is located west of I-5 near scenic Crest Canyon and the Torrey Pines Reserve Extension. Thus, development in this area has the potential for adverse impacts on natural landforms and community character. Although development in this area will not likely interfere with ocean views, it could affect the scenic qualities of the Crest Canyon and Torrey Pines Reserve Extension area's viewsheds.

Excluded development could occur along Del Mar Heights Road, which is a major coastal access route and is thus considered an area for special treatment. The City's existing zoning regulations contain specific landscaping, height, floor area ratio and setback standards which would apply to any new

development. However, through the coastal development permit process, which includes application of the policies in the certified Torrey Pines Community Plan and public input from the community, site-specific plan modifications may result, which could be more protective of community character than development based on the City's ordinances alone. Approval of the proposed categorical exclusion request would remove this level of discretion and the opportunity for formal public participation in the decision-making process. The Commission therefore finds that adequate protection of scenic resources cannot be fully assured if the proposed exclusion order is granted.

4. Hazards Section 30253 of the Coastal Act requires that new development minimize risks to life and property in areas of high geologic, flood, and fire hazard. The categories of development proposed for exclusion should not result in risks to life or property as the City's grading regulations would still apply and these should adequately mitigate any adverse environmental effects associated with such developments. Moreover, the Del Mar Heights portion of the Torrey Pines community is a relatively-flat, mesa-top area, where geologic hazards are nearly non-existent, and none of the mapped exclusion area falls within the delineated Hillside Review Overlay. However, once again, the public input encompassed in the coastal development permit process could provide a venue for requiring site-specific design refinements to more appropriately address the siting of structures and minimize landform alteration. Therefore, the Commission finds that the proposed exclusion order creates a potential for some geologic hazards to occur.

5. Public Access. Section 30212 of the Coastal Act requires that public access to the shoreline be provided in conjunction with new development, except where inconsistent with the public safety, military security needs, or where adequate access exists nearby. The proposed exclusions would not have significant adverse impacts on existing or potential new public access opportunities because the subject portion of the community is well removed from the immediate shoreline. In addition, the affected properties closest to the shoreline are inland of, and disconnected from, Camino del Mar, such that there is no beach or blufftop access through any of the affected properties.

Section 30252 addresses the protection and enhancement of public access through the provision of adequate off-street parking associated with new development, both to assure that existing street spaces remain available for beachgoers and to facilitate a smooth flow of traffic on coastal access routes. Del Mar Heights Road is a major coastal access route, cutting through the subject area in an east-west direction, and connecting Interstate 5 with Camino del Mar. However, the development the City proposed to be excluded (i.e., the demolition of structures and construction of single-family residences on existing legal lots) would not adversely affect traffic on area streets, including coastal access routes, since most existing legal lots already have homes on them. Existing zoning already requires property owners to provide adequate off-street parking for permitted residential uses, to assure that the private development will not adversely impact public parking

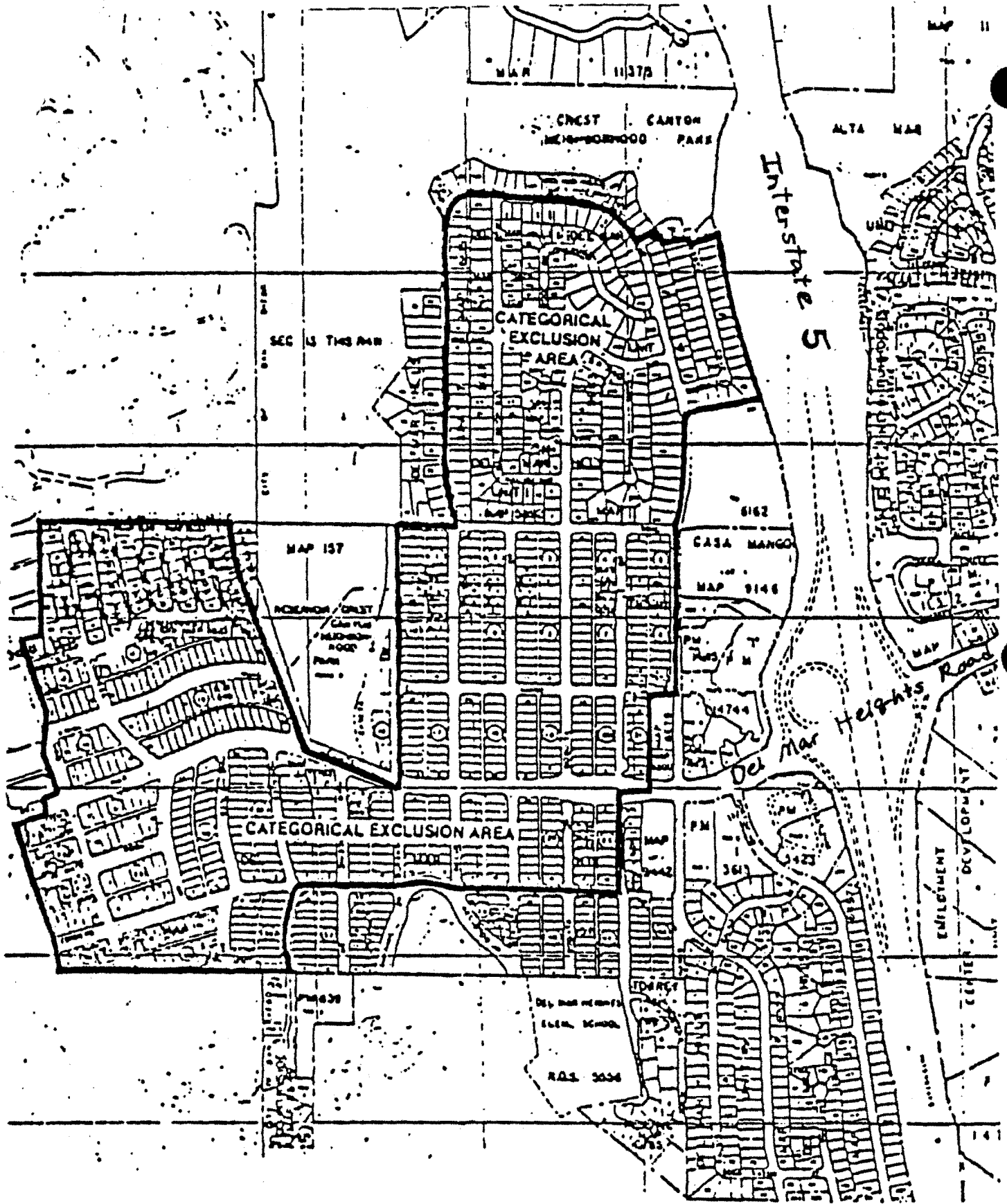
reservoirs. The area proposed for categorical exclusion is too far inland, in any event, for its street system to serve as a parking reservoir for beach visitors.

A concern was raised regarding the current practice of renting out additional bedrooms in single-family residences, especially in coastal areas where the cost of land is so high. This often results in a significant increase in both the number of individual residents and the number of resident vehicles in a community. However, this practice is not addressed through issuance of a coastal development permit, and could occur as often with a permit as it might if the coastal development permit process was deleted. Thus, eliminating the coastal development permit process through approval of the proposed categorical exclusion request would not, in itself, have any bearing on this particular concern. Therefore, the Commission finds that the proposed categorical exclusion order presents no potential for any significant adverse impacts, either individually or cumulatively, on public access to or along the coast, and is thus consistent with Sections 30212 and 30252 of the Coastal Act. The following findings, however, will demonstrate that the proposed categorical exclusion order might not be fully consistent with other Coastal Act policies in all potential applications.

6. Local Coastal Planning. The City of San Diego has a certified local coastal program. As a procedural matter, had the Commission adopted Categorical Exclusion Order No. E-95-1, that action would not in any way amend the certified City of San Diego LCP. The City requested that the Commission adopt a categorical exclusion of certain development in the Torrey Pines Community by adopting and submitting an ordinance that purports to categorically exclude development from permit requirements. The Commission cannot process the ordinance as an LCP amendment. The Coastal Act procedures, findings, voting requirements etc., for categorical exclusions are distinct from those applicable to LCP amendments. Thus, the Commission has interpreted the City's submission of the ordinance as a request for a categorical exclusion. In response to this request, the Commission has denied Categorical Exclusion Order No. E-95-1, finding that the proposed order is inconsistent with Section 30610(e) of the Coastal Act.

#### VI. PROPOSED NEGATIVE DECLARATION

The Commission does not adopt the Negative Declaration because it finds that the development proposed to be excluded does have the potential for adverse effects, individually and cumulatively, on coastal resources. Therefore, the Commission did not certify the proposed Negative Declaration for Categorical Exclusion E-95-1. The findings in support of this conclusion are set forth in the findings for denial of the categorical exclusion.



Proposed Categorical Exclusion Area  
 Map C-866  
 Exhibit #1