

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: DEBORAH LEE, SOUTH COAST DEPUTY DIRECTOR
SHERILYN SARB, DISTRICT MANAGER, SAN DIEGO
ELLEN LIRLEY, COASTAL PROGRAM ANALYST, SAN DIEGO**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR
AMENDMENT No. 4-2001 (TIERRA ALTA REZONE) (For Public Hearing and
Possible Final Action at the Coastal Commission Hearing of November 5-8, 2002)**

SYNOPSIS**SUMMARY OF AMENDMENT REQUEST**

The LCP amendment consists of one item only, the proposed rezone of a 4.44-acre property in the North City LCP segment from AR-1-1 (Agricultural-Residential) to RS-1-13 (Residential Single Unit). The site is in the Mira Mesa Community Plan area, and is located north of Calle Cristobal on the rim overlooking the Los Penasquitos Canyon Preserve. The City reviewed the rezone in conjunction with a specific development proposal for a 10 lot subdivision and construction of 11 single family residences. The local approvals include the subject LCP amendment, rezone, 10-lot tentative map, Planned Residential Development Permit, Resource Protection Ordinance Permit, Coastal Development Permit, Multiple Habitat Planning Area (MHPA) Boundary Adjustment and certification of a Mitigated Negative Declaration. The associated coastal development permit has been appealed and is being held in abeyance pending Commission action on the subject rezone/LCP amendment.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the LCP Amendment first be denied as proposed, then approved with modifications. The City has approved the entire site to be rezoned from a rural holding zone (AR-1-1) to very low density single family residential (RS-1-13). However, the Mira Mesa Community Plan, which is part of the City's LCP and is the certified Land Use Plan (LUP) for the site, designates a portion of the site for very low density residential development (0-4 dua) and a portion for open space. The LUP also includes strong protections for the biologically sensitive resources that are present on the site. The proposed RS-1-13 Zone would not provide the kind of protection for these resources that is required by the LUP. Staff recommends the property be rezoned in a manner fully consistent with the LUP. In reviewing the various zones available, staff believes the OR-

1-1 Zone (Open Space Residential) is the only appropriate zone in light of the specific conditions of the site.

The site is partially a flat mesa top and partially steep slopes leading down into Los Penasquitos Canyon Preserve. Nearly all of the site is Environmentally Sensitive Habitat Area (ESHA), including southern mixed chaparral on both the slopes and mesa top, with vernal pool habitat present on the mesa top as well. A small portion of the site has been disturbed by creation of dirt roads in a roughly triangular pattern in the southeastern area of the property; the area within and surrounding the triangle is all southern mixed chaparral (See Exhibit #6). Development of portions of the disturbed area would preclude a 100-foot buffer around the vernal pool habitat. Under the OR-1-1 zone, development is limited to not more than 25% of the site, and the 25% developable area must be the least environmentally sensitive part of the property. The remaining 75% must be reserved in open space.

The staff believes, where an LUP map depicts a lot as being partially open space, the OR-1-1 Zone should apply to the entire lot, not just the open space designated portion of the lot. Otherwise, implementation of the certified Land Development Code (LDC) would presume all ESHA worthy of protection is either designated open space, within the MHPA, or on steep hillsides. The certified LDC uses the OR zones to regulate development within and adjacent to these areas. It assumes a low density residential potential, but limits the developable area to 25% of the property. The Commission has found 25% to be appropriate for highly constrained parcels all or nearly all ESHA, such as the subject site. A residential and open space zoning split, even with application of the Environmentally Sensitive Lands regulations (ESL), does not afford this protection and is therefore inconsistent with the habitat protection policies of the certified LUP.

The appropriate resolutions and motions begin on page 5. The suggested modifications begin on page 6. The findings for denial of the Implementation Plan Amendment as submitted begin on page 6. The findings for approval of the plan, if modified, begin on page 11.

BACKGROUND

The City's first Implementation Program (IP) was certified in 1988, and the City assumed permit authority shortly thereafter. The IP consisted of portions of the City's Municipal Code, along with a number of Planned District Ordinances (PDOs) and Council Policies. Late in 1999, the Commission effectively certified the City's Land Development Code (LDC) and a few PDOs; this replaced the first IP in its entirety and went into effect in the coastal zone on January 1, 2000. While it is relatively new in operation, the City is reviewing this plan on a quarterly basis, and is expecting to make a number of adjustments to facilitate implementation; most of these will require Commission review and certification through the LCP amendment process. The City's IP includes Chapters 11 through 14 of the LDC.

ADDITIONAL INFORMATION

Further information on the City of San Diego LCP Amendment No. 4-2001 may be obtained from Ellen Lirley, Coastal Planner, at (619) 767-2370.

PART I. OVERVIEW

A. LCP HISTORY

The City of San Diego has a long history of involvement with the community planning process; as a result, in 1977, the City requested that the Coastal Commission permit segmentation of its Land Use Plan (LUP) into twelve parts in order to have the LCP process conform, to the maximum extent feasible, with the City's various community plan boundaries. In the intervening years, the City has intermittently submitted all of its LUP segments, which are all presently certified, in whole or in part. The earliest LUP approval occurred in May 1979, with others occurring in 1988, in concert with the implementation plan. The final segment, Mission Bay Park, was certified in November 1996.

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

Since effective certification of the City's LCP, there have been numerous major and minor amendments processed. These have included everything from land use revisions in several segments, to the rezoning of single properties, and to modifications of citywide ordinances. In November 1999, the Commission certified the City's Land Development Code (LDC), and associated documents, as the City's IP, replacing the original IP adopted in 1988. The LDC has been in effect within the City's coastal zone since January 1, 2000.

B. STANDARD OF REVIEW

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

C. PUBLIC PARTICIPATION

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

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

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

- I. MOTION I:** *I move that the Commission reject the Implementation Program Amendment for the North City segment of the City of San Diego certified LCP as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a YES vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program Amendment submitted for North City segment of the City of San Diego certified LCP and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted

- II. MOTION II:** *I move that the Commission certify the Implementation Program Amendment for the North City segment of the City of San Diego certified LCP if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION:

Staff recommends a YES vote. Passage of this motion will result in certification of the Implementation Program Amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Implementation Program Amendment for the North City segment of the City of San Diego certified LCP if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment with the suggested modifications conforms with, and is adequate to carry

out, the provisions of the certified Land Use Plan. Certification of the Implementation Program Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

PART III. SUGGESTED MODIFICATIONS

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

1. CHANGE TO NEW CITY ORDINANCE APPROVING REVISED REZONE:

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO CHANGING 4.44 ACRES, LOCATED AT THE NORTHERLY TERMINUS OF CAMINITO RODAR NORTH OF CALLE CRISTOBAL, IN THE MIRA MESA COMMUNITY PLAN AREA, IN THE CITY OF SAN DIEGO, CALIFORNIA, FROM THE AR-1-1 ZONE (PREVIOUSLY REFERRED TO AS THE A-1-5 ZONE) TO THE RS-1-13 ZONE (~~PREVIOUSLY REFERRED TO AS THE R1-6,000 ZONE~~), OR-1-1 ZONE, AS DEFINED BY SAN DIEGO MUNICIPAL CODE SECTION ~~131.0403 (PREVIOUSLY FOUND IN SDMC SECTION 101.0407)~~, 131.0201, AND REPEALING ORDINANCE NO. O-9030 (NEW SERIES), ADOPTED JUNE 4, 1964, OF THE ORDINANCES OF THE CITY OF SAN DIEGO INsofar AS THE SAME CONFLICTS HERewith.

2. CHANGES TO MAP NO. B-4113, DATED 9/15/98:

The referenced map must be modified to graphically depict the change made in Suggested Modification #1.

PART IV. FINDINGS FOR REJECTION OF THE NORTH CITY SEGMENT OF THE CITY OF SAN DIEGO CERTIFIED LCP IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The subject amendment request proposes to rezone an existing 4.44 acre parcel in the North City LCP Segment (Mira Mesa Community Plan) from AR-1-1 (Agricultural-Residential) to RS-1-13 (Residential-Single Unit). The rezone would allow low density (0-4 du) residential development on the site, provided it is consistent with other sections of the LDC, such as the Environmentally Sensitive Lands regulations (ESL). The City reviewed a specific proposal for subdivision of the parcel and subsequent build-out concurrent with processing the rezone. The Commission, however, must address the

rezone in isolation and consider the full range of future development that the approved rezone would allow.

B. SUMMARY FINDINGS FOR REJECTION

Briefly, the proposed rezoning does not conform with, nor is it adequate to carry out, the certified Mira Mesa Community Plan. The community plan recognized the severe resource constraints on the site, and delineated only the flat mesa top portion for residential development. The community plan designated those portions consisting of steeper slopes as open space and requires that other significant sensitive resource areas be preserved as open space. The City cannot apply a residential zone to the entire site when that is clearly not the intent of the certified LUP. In addition, the mesa top portion of the site consists largely of southern mixed chaparral and a vernal pool. The proposed residential zone does not include habitat protection standards that are sufficient to meet the requirements of the LUP. Other zones exist in the certified LCP Implementation Plan (IP) which would more fully protect the existing biological resources on the site, and still allow limited residential development to occur, as envisioned and required by the LUP policies.

B. SPECIFIC FINDINGS FOR REJECTION

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP.

a) Purpose and Intent of the Ordinance. The RS-1-13 Zone is designed to accommodate low density residential development, and allows densities ranging between 0 and 4 dwelling units per acre. The zone requires 6,000 sq.ft. minimum lots and is intended for use in the city's planned and future urbanizing areas.

b) Major Provisions of the Ordinance.

- Primarily allows single family residences, but small group homes, day care facilities, etc. are also allowed by right, and other uses with discretionary permits.
- Contains development regulations addressing density, lot size, setbacks, floor area ratios, etc.
- Contains regulations addressing lot coverage, garage requirements and accessory structures
- Contains architectural/design requirements

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The RS-1-13 zone is not appropriate to implement development of this specific, severely-constrained parcel of land. The certified LUP clearly identifies a major portion of this property as open space, and the City has open space zones available to address single

private properties where the LUP designation is split into more than one category. The Sensitive Resources and Open Space System of the certified LUP includes many policies addressing protection of the entire Mira Mesa open space system, and additional policies specifically addressing Los Penasquitos Canyon Preserve (Preserve), including those quoted below:

Policy 1.a. states:

Sensitive resource areas of community-wide and regional significance shall be preserved **as open space**. (emphasis added)

Policy 4.c. states:

No encroachment shall be permitted into wetlands, including vernal pools. Encroachment into native grasslands, Coastal Sage Scrub, and Maritime Chaparral shall be consistent with the Resource Protection Ordinance. Purchase, creation, or enhancement of replacement habitat area shall be required at ratios determined by the Resource Protection Ordinance or State and Federal agencies, as appropriate. In areas of native vegetation that are connected to an open space system, the City shall require that as much native vegetation as possible is preserved **as open space**. (emphasis added – also, the Resource Protection Ordinance was part of the City's old municipal code; these resources are now protected under the ESL)

Policy 4.e. states, in part:

Sensitive habitat area that is degraded or disturbed by development activity or other human impacts (such as non-permitted grading, clearing or grubbing activity or four-wheel drive activity) shall be restored or enhanced with the appropriate native plant community. This is critically important when the disturbed area is adjacent to other biologically sensitive habitats. Manufactured slopes and graded areas adjacent to sensitive habitat shall be re-vegetated with the appropriate native plant community, as much as is feasible considering the City's brush management regulations.

Policy 4.i. states:

Vernal Pools: The remaining vernal pool habitat in the community shall be preserved and shall be protected from vehicular or other human-caused damage, encroachment in their watershed areas, and urban runoff.

Policy 4.l. states:

Maritime Chaparral: Maritime chaparral shall be protected from impacts due to adjacent development, including grading and brush management, that may cause damage or degradation to the habitat qualities of this resource.

Proposal 1. states in part:

Preserve the flood plain and adjacent slopes of the five major canyon systems that traverse the community – Los Penasquitos Canyon ... and the remaining vernal pool sites ... in a natural state **as open space.** (emphasis added)

In addition, the Residential Land Use portion of the certified LUP (Mira Mesa Community Plan) includes the following goal and subsequent policies and proposals:

Goal (cover page of element) states:

Residential subdivisions that are designed to preserve Mira Mesa's unique system of canyons, ridge tops and mesas.

Policy 1. Determination of Permitted Density states:

a. In determining the permitted density and lot size for specific projects, within the density ranges provided under the Proposals below, the City shall take into account the following factors:

1. Compatibility with the policies established in this plan;
2. Compatibility with the density and pattern of adjacent land uses;
3. Consideration of the topography of the project site and assurance that the site design minimizes impacts on areas with slopes in excess of 25 percent **and sensitive biology.** (emphasis added)

Policy b. states:

The City shall permit very low density development in canyon and slope areas that are not to be preserved for open space and shall permit flexibility in street improvements in residential subdivisions in topographically constrained sites.

Proposal 1. states in part:

The following density ranges and building types are proposed to meet the goals of this plan: ...

... Very low density: 0-4 dwelling units per gross acre. This density range is proposed for Lopez Ridge and the northeastern corner of the community near Canyon Hills Park. This range is generally characterized by clustered detached single-family or attached multifamily units (such as duplexes and townhomes) built on large hillside parcels **that contain relatively small areas suitable for buildings.** Design flexibility on these hillside parcels is necessary to integrate development with the natural environment, preserve and enhance views, **and protect areas of unique topography and vegetation.** ... The maximum four

units per acre is not likely to be achieved except on lots that have large areas in slopes of less than 25 percent. ... (emphasis added)

The subject site, a 4.44 acre parcel, consists largely of sensitive biological resources, including southern mixed chaparral and a vernal pool and its watershed. The site consists of a flat mesa top and slopes (some greater than 25% gradient) which continue north, east and west of the site down into the Los Penasquitos Canyon Preserve. The Preserve is a large urban open space system that provides habitat for many sensitive and endangered species, and also provides passive recreational opportunities for the public. It connects on the west to Los Penasquitos Lagoon, and on the east to other open space canyon systems, making it a regionally significant resource. Only a relatively small portion of the site has been informally disturbed, by foot traffic, mountain bikers and/or off-road vehicles. The largest disturbed area is on the mesa top, immediately adjacent to the existing terminus of Caminito Rodar, but disturbed pathways lead north/northeast from this area, surrounding an isolated patch of southern mixed chaparral (ref. Exhibit #4). The disturbed area is adjacent to the vernal pool site on the south, east and north, but the lands west of the vernal pool are natively vegetated and lead down into a deep finger canyon. The site is a promontory jutting out into Los Penasquitos Canyon Preserve, and is connected to the community open space system on three sides, with existing residential development located south of the existing fence along the southern property line. The native vegetation on the mesa top is contiguous with, and an extension of, other native vegetation on the canyon slopes.

The cited LUP policies clearly intend that sensitive biological resources be as fully protected as possible, both on slopes and flatter areas. The City-approved rezone applies residential zoning (RS-1-13) to the entire 4.4 acre property. With application of the RS-1-13 Zone to the subject site, the Environmentally Sensitive Lands regulations (ESL) contained in the certified LCP Implementation Plan (Land Development Code) would also apply to development of the site. Pursuant to the ESL, the majority of the environmentally sensitive habitat area (ESHA) on steep slopes would be protected from grading, development and Zone 1 brush management measures. The vernal pool, being a delineated wetland, would be protected, and the ESL would require provision of a minimum 100-foot buffer and protection of the vernal pool watershed. However, the ESL only protects sensitive biological resources on steep hillsides, areas within the Multi-Habitat Planning Area (MHPA), areas designated open space in the applicable land use plan and properties zoned OR-1-1 (Open Space Residential allowing maximum 25% developable area). The ESL regulations alone do not protect native vegetation on non-steep slopes (i.e., the mesa top) if the property has a non-open space residential zone such as the proposed RS-1-13 zone. Thus, none of the cited goals, policies, and proposals, which afford protection to existing sensitive biological resources and provide that the maximum amount of such resources within the community be preserved as open space, could be adequately implemented through a residential zone alone. The City's proposal to apply a residential zone to the entire site ignores the intent of the LUP to protect existing resources and place a major portion of the site in open space. Therefore, the subject rezone is inconsistent with the certified LUP.

**PART V. FINDINGS FOR APPROVAL OF THE CITY OF SAN DIEGO
IMPLEMENTATION PLAN AMENDMENT, IF MODIFIED**

In review of the proposed rezone, the Commission must consider the range of zoning options available in the Land Development Code (LDC) which serves as the certified LCP Implementation Plan. The Commission also recognizes that, regardless of the zone applied to the property, the above mentioned ESL is also applicable where any portion of the premises contains environmentally sensitive lands, including sensitive biological resources and steep hillsides, such as the subject site. These terms are defined in the LDC as follows:

Sensitive biological resources means upland and/or wetland areas that meet any one of the following criteria:

- (a) Lands that have been included in the City of San Diego Multiple Species Conservation Program Preserve;
- (b) Wetlands;
- (c) Lands outside the MHPA that contain Tier I Habitats, Tier II Habitats, Tier IIIA Habitats, or Tier IIIB Habitats;
- (d) Lands supporting species or subspecies listed as rare, endangered, or threatened under Section 670.2 or 670.5, Title 14, California Code of Regulations, or the Federal Endangered Species Act, Title 50, Code of Federal Regulations, Section 17.11 or 17.12, or candidate species under the California Code of Regulations;
- (e) Lands containing habitats with Narrow Endemic Species as listed in the Biology Guidelines in the Land Development manual; or
- (f) Lands containing habitats of covered species as listed in the Biology Guidelines in the Land Development Manual.

Steep hillsides means all lands that have a slope with a natural gradient of 25 percent (4 feet of horizontal distance for every 1 foot of vertical distance) or greater and a minimum elevation differential of 50 feet, or a natural gradient of 200 percent (1 foot of horizontal distance for every 2 feet of vertical distance) or greater and a minimum elevation differential of 10 feet.

The site of the proposed rezoning includes both steep hillsides and sensitive biological resources. There are areas of 25% or greater slopes on three sides of the flat mesa top, the east, west and north sides, with existing development to the south. These steep hillsides extend from elevation 413 ft. to elevation 342 ft. on-site, then continue down to the canyon bottom. Both the slopes and the majority of the mesa top are covered with southern mixed chaparral vegetation, a Tier IIIA Habitat type. A delineated vernal pool

is also present on the mesa top. Moreover, portions of the site, primarily the steep slopes, are within the MHPA.

The City's certified LDC includes several zones that could be applied to the subject site, including the OC (Open Space Conservation) Zone, and the two OR (Open Space Residential) Zones, OR-1-1 and OR-1-2. Retaining the existing AR-1-1 (Agricultural-Residential) zone was also considered, but this zone does not implement the LUP designations of open space and residential.

The Open Space Conservation zone does not allow any residential development and could, thus, only apply to the open space designated portion of the property. The only structural facilities allowed in the OC zone are satellite antennas and nature centers, and these are not allowed by right, but require local discretionary permits. As such, the potential to apply split zoning to the site was investigated, with the intention of placing the RS-1-13 Zone over the residentially-designated portion and the OC Zone over the portion designated open space. This alternative was rejected because many of the significant sensitive biological resources (southern mixed chaparral and the vernal pool area) are located within the portion of the site that would be zoned residential and not all would be protected by the ESL.

As indicated previously, the ESL works with the OR zones to protect sensitive biological resources (other than wetlands) when located within the MHPA and on premises designated open space and zoned OR-1-1. Section 143.0141 of the ESL is attached in its entirety as Exhibit #10 and states, in applicable part:

143.141 Development Regulations for Sensitive Biological Resources

-(d) Inside the MHPA, development is permitted only if necessary to achieve the allowable development area in accordance with the regulations set forth in the OR-1-2 zone, pursuant to Section 131.0250(b),
- (e) Inside and adjacent to the MHPA, all development proposals shall be consistent with the City of San Diego MSCP Subarea Plan.
- (f)
- (g) Outside the MHPA, development of lands that are designated as open space in the applicable land use plan and zoned OR-1-1 is permitted only if necessary to achieve the allowable development area, in accordance with Section 131.0250(a).
- (h) Outside the MHPA, encroachment into sensitive biological resources is not limited, except as set forth in Section 143.0141 (b) and (g).

Therefore, outside the MHPA and on non-steep areas, sensitive biological resources are only protected through open space zoning or designation. The Commission finds that the OR-1-1 Zone protects the significant native vegetation and the vernal pool on the mesa top, consistent with the requirements of the certified LUP, while still allowing residential development on a portion of the site. The stated purpose of the open space zones in general is that "these zones be applied to lands where the primary uses are parks or open space or to private land where development must be limited to implement open space

policies of adopted land use plans” (emphasis added). Specifically, the “OR-1-1 Zone allows open space with limited private residential development,” and some other uses normally associated with single-family residential neighborhoods, like small family day care homes, small residential care facilities, and small transitional homes, or agricultural uses, including aquaculture. It could also allow a number of other facilities associated with residential and agricultural uses, but these are not permitted by right, and require additional local discretionary review.

The City’s certified Open Space Zones are attached to this report as Exhibit #9. The following excerpts from these zones identify specific provisions of the OR-1-1 Zone that support the Commission’s finding this zone should be applied to the entire property and not only the portion designated open space.

Section 131.0220 states, in part:

... The uses permitted in any zone may be further limited if environmentally sensitive lands are present, pursuant to Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations). ...

Section 131.0222, Footnote 1 for Table 131.02 B states:

All uses in the OR zone, except passive recreation and natural resource preservation, shall be located within the allowable development area in accordance with Section 131.0250.

Section 131.0240(a) states:

(a) Within the OR-1-1 Zone, an exception to the permitted residential density of one single dwelling unit per lot may be requested as a rural cluster development through a Planned Development Permit in accordance with Process Four subject to the following:

- (1) The proposed development shall comply with Chapter 4, Article 3, Division 4 (Planned Development Permit Regulations).
- (2) Dwelling units shall be clustered within the allowable development area as described in Section 131.0250(a) and need not be located on individual lots provided the overall density does not exceed one dwelling unit per 10 acres.
- (3) The remainder of the premises shall be maintained in its natural state.

Section 131.0250 Allowable Development Area in OR Zones) states, in part:

(a) Within the OR-1-1 zone, up to 25 percent of the premises may be developed subject to the following:

(1) If 25 percent or more of the entire site is not in its natural state due to existing development, any new development proposed shall occur within the disturbed portion of the site and no additional development area is permitted.

(2) If the OR-1-1 zone applies only to a portion of a premises, the following regulations apply:

(A) If less than 25 percent of the premises is outside the OR-1-1 zone, the portion that is outside the OR-1-1 zone shall be developed before any encroachment into the OR-1-1 zoned portion. Encroachment into the OR-1-1 zone may be permitted to achieve a maximum development area of 25 percent of the entire site. See Diagram 131-02A.

(B) If more than 25 % of the premises is outside the OR-1-1 zone, the area outside the OR-1-1 zone may be developed and no additional development area is permitted. See Diagram 131-02B.

Therefore, pursuant to Section 131.0250, development on premises zoned OR-1-1 is limited to a 25% maximum developable area; however, if the OR-1-1 zone is only applied to the open space designated portion of the site, and the area outside the open space is greater than 25% of the site, that entire area outside the open space zone may be developed. The OR-1-2 zone contains similar provisions and is applicable to premises partially in and partially out of the MHPA. This zone would allow impacts to sensitive biological resources outside the MHPA in exchange for permanent preservation of resources within the MHPA. If either open space residential zone were applied only to the steep slope portions of the site and a residential zone assigned to the mesa top, the southern mixed chaparral on the mesa top would not receive the protection mandated by the LUP. By applying open space residential zones to the entire site, however, all policies of the LUP can be accommodated. The vernal pool and the southern mixed chaparral on the mesa top would be protected from significant disruption while still accommodating some residential development. The Commission finds the OR-1-1 and OR-1-2 zones should apply to entire premises within and adjacent to the MHPA and designated open space, or sites containing all or nearly all ESHA, such as the subject site.

The Commission finds that the OR-1-1 Zone, as certified, is not only appropriate, but was specifically intended to address properties like the subject site. The site is partially steep slopes/partially flat, partially designated open space/partially residential, partially in the MHPA/partially outside. It has large areas of sensitive biological resources and minimal disturbed area suitable for development. The OR-1-1 zone currently provides for a minimum lot size of 10 acres, so the current 4.44 acre lot could not be subdivided. The LUP, however, does allow for clustering development within the disturbed portions of large lots. An LCP amendment to allow appropriately clustered development on the disturbed portion of the lot could be found consistent with the certified LUP, providing it is consistent with LUP policies addressing other issues (views or runoff, for example).

Thus, the City may bring forward for Commission consideration amendments to the OR-1-1 Zone to address the issues of density and clustering.

The City maintains that the OR-1-1 Zone can only be applied to lots or portions of lots that were mapped as open space areas in the LUP. The Commission, however, certified the LDC with the belief that these zones would be applied to sites where the LUP designated more than one use, provided one of the uses was open space, as well as to private properties designated only for open space. The stated purpose of the OR zones is "to preserve privately owned property that is designated as open space in a land use plan for such purposes as preservation of public health and safety, visual quality, sensitive biological resources, steep hillsides, and control of urban form, while retaining private development potential." The Commission interprets this zone as applicable when any portion of the site is designated as open space and not limited to only those portions of a site designated open space, when the certified LUP designates more than one land use. Thus, the OR-1-1 Zone can be applied to the subject site because it "preserve(s) privately owned property that is designated open space [everything below the rim of Los Penasquitos Canyon], for such purposes as preservation of ... sensitive biological resources [southern mixed chaparral and vernal pool habitat on the mesa top] ... and retains private development potential" [on 25% of the property, consisting primarily of the previously disturbed areas on the mesa top]. Not only does the LUP expressly designate everything below the rim of Los Penasquitos Canyon as open space, LUP policies 1.a., 4.c, and proposal 1 (cited on Pages 8 and 9 of these findings) also require the portions of the mesa top that contain significant native vegetation or vernal pools to be protected as open space.

Application of the OR zone to only the open space portion of the site could allow significant development in areas the LUP protects as open space, both on the canyon slope and on the portions of the mesa top containing southern mixed chaparral vegetation. As the property is ultimately developed, only the southeast part of the mesa top is really suitable for development for a number of reasons: 1) this is the most disturbed part of the site; 2) this area is least visible from the Los Penasquitos Canyon Preserve; 3) this area is closest to existing development and existing infrastructure. Even more critical, over half the mesa top is covered with southern mixed chaparral, and there is at least one delineated vernal pool (attached correspondence suggests there may be more) in a slightly depressed area of the mesa top. The LUP provides for very low density residential development within a density range of 0-4 units per acre. Due to the highly constrained nature of the mesa top, it is unreasonable to expect that the maximum density could be achieved on this property. Full development of the mesa top would result in significant loss of ESHA including southern mixed chaparral and vernal pool resources.

However, any proposed development would be subject to further restrictions under the ESL regulations, which would protect the vernal pool watershed, as well as a 100-foot buffer around it. These regulations would also address the width and location of brush management zones, particularly Zone 1 brush management, which cannot encroach onto steep slopes or sensitive habitat. The site is partially within (slopes) and partially outside (flat areas) the defined Multiple Habitat Planning Area (MHPA) boundaries which delineate the perimeter of the City's habitat protection program responding to state NCCP

requirements. The program is not part of the City's certified LCP, although it is referenced in some certified LUPs and portions of the LDC. As stated above, the ESL regulations do not protect sensitive habitat areas on flat portions of a site that are not included within the City's MHPA or designated open space, unless the site is zoned OR-1-1. Applying any non-open space residential zone to the property would therefore be inconsistent with the resource protection policies of the LUP.

In summary, the Commission finds that the OR-1-1 Zone is the only zone that would protect the resources on the site in the manner required by the certified LUP. None of the other zones considered fully complies with the certified Mira Mesa Community Plan and the general parameters of each zone. The OR-1-1 Zone would allow reasonable use of the property, as one single-family residence would be permitted. Therefore, the Commission's interpretation of the OR-1-1 Zone's applicability to this site is fully consistent with the cited LUP policies in that it provides protection for all on-site resources, maintains very low density consistent with adjacent open space areas, and allows the property owner reasonable use of the 4.44 acre legal lot.

The LCP does not currently have a zoning designation that would allow for the development of more than one residence on the property while still protecting the native vegetation on the site. The LUP, however, does allow the clustering of development on the disturbed portions of properties with sensitive resources. An LCP amendment to allow more than one residence to be clustered on the disturbed portion of the site could likely be found consistent with the certified LUP.

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

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

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP amendment, does conform with CEQA. In this particular case, the proposed amendment is being certified with suggested modification to apply a different zone to the subject site. As noted in the previous findings, the certified LUP is best implemented through the OR-1-1 Zone, which provides the greatest protection to the assortment of sensitive resources on the site, would thus also minimize to the greatest extent feasible any environmental impacts associated with developing the site. The proposed RS-1-13 Zone affords a much lower level of resource protection and is inconsistent with the LUP designations for this site. Thus, the Commission's action is to adopt suggested modifications to apply the OR-1-1 Zone to the property. As modified, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact on the

environment. Therefore, the Commission finds the subject LCP implementation plan amendment, if modified as suggested, conforms with CEQA.

(G:\San Diego\Reports\LCP's\City of San Diego\North City\City of San Diego LCPA 4-2001 stfprt.doc)

P 24
R. KORCH

(R-2002-532) COR. COPY MS-302
10/23/01

RESOLUTION NUMBER R- 295658


ADOPTED ON OCT 30 2001

WHEREAS, Newland Group, Inc., Owner/Permittee, requested an amendment to the Local Coastal Program, including a Multiple Habitat Planning Area [MHPA] boundary adjustment, for the purpose of rezoning a 4.4 acre site from the AR-1-1 zone (previously referred to as the A-1-5 zone) to the RS-1-13 zone (previously referred to as the R1-6,000 zone) for the purpose of subdividing the site and constructing eleven single-family dwelling units, preserving a vernal pool site, and providing brush management adjacent to the Rancho de Los Penasquitos Park Preserve [Tierra Alta Project], located north of Calle Cristobal at the north terminus of Caminito Rodar within the Mira Mesa Community Plan area; and

WHEREAS, on August 9, 2001, the Planning Commission of the City of San Diego held a public hearing to consider all actions related to the consideration of the Tierra Alta Project, including the amendment of the Local Coastal Program, and recommended by a vote of 5-0 that the City Council approve the actions; and

WHEREAS, on October 30, 2001, the Council of the City of San Diego held a public hearing for the purpose of considering an amendment to the Local Coastal Program for the Tierra Alta Project; and

WHEREAS, the Council has considered all maps, exhibits and written documents contained in the file for this project on record in the City of San Diego, and has considered the oral presentations given at the public hearing; NOW, THEREFORE,

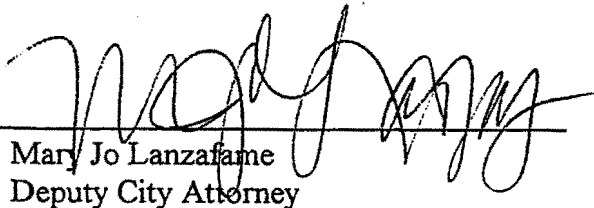
EXHIBIT NO. 1
APPLICATION NO.
SDLCPA #4-2001
Resolution
Pages 1 - 2
 California Coastal Commission

BE IT RESOLVED, by the Council of the City of San Diego, that it approves the Amendment to the Local Coastal Program for the Tierra Alta Project, including approval of the Multiple Habitat Planning Area [MHPA] boundary adjustment as described on page 5 and further shown on Figure 2 of the Tierra Alta Initial Study, which is a component of the Tierra Alta Mitigated Negative Declaration (LDR No. 98-0792/SCH No. 2001061066). A copy of the amendment is on file in the Office of the City Clerk as Document No. RR- 295658.

BE IT FURTHER RESOLVED, that this amendment to the City's Local Coastal Program will not become effective until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

APPROVED: CASEY GWINN, City Attorney

By


Mary Jo Lanzafame
Deputy City Attorney

MJL:lc
10/15/01
10/23/01 COR.COPY
Or.Dept:Dev.Svcs.
R-2002-532
Form=r-t.frm


ORDINANCE NUMBER O- 19011 (NEW SERIES)

ADOPTED ON NOV 19 2001

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO CHANGING 4.44 ACRES, LOCATED AT THE NORTHERLY TERMINUS OF CAMINITO RODAR NORTH OF CALLE CRISTOBAL, IN THE MIRA MESA COMMUNITY PLAN AREA, IN THE CITY OF SAN DIEGO, CALIFORNIA, FROM THE AR-1-1 ZONE (PREVIOUSLY REFERRED TO AS THE A-1-5 ZONE) TO THE RS-1-13 ZONE (PREVIOUSLY REFERRED TO AS THE R1-6,000 ZONE), AS DEFINED BY SAN DIEGO MUNICIPAL CODE SECTION 131.0403 (PREVIOUSLY FOUND IN SDMC SECTION 101.0407); AND REPEALING ORDINANCE NO. O-9030 (NEW SERIES), ADOPTED JUNE 4, 1964, OF THE ORDINANCES OF THE CITY OF SAN DIEGO INsofar AS THE SAME CONFLICTS HERewith.

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. In the event that within three years of the effective date of this ordinance rezoning 4.44, located at the Northerly terminus of Caminito Rodar North of Calle Cristobal, and legally described as a Portion of Rancho de Los Penasquitos, in the Mira Mesa Community Plan area, in the City of San Diego, California, from the AR-1-1 zone (previously referred to as the A-1-5 zone) to the RS-1-13 zone (previously referred to as the R1-6,000 zone), as shown on Zone Map Drawing No. B-4113, the property is subdivided and a map or maps thereof duly submitted to the City, approved by the City, and thereafter recorded, and within such subdivision or subdivisions provision is made for the installation of public utility services and the dedication of streets, alleys and easements for public use, the provisions of San Diego Municipal Code [SDMC] section 131.0403 (previously found in SDMC section 101.0407) shall attach and become applicable to the subdivided land, and the subdivided land shall be incorporated into the RS-1-13

EXHIBIT NO. 2
APPLICATION NO.
SDLCPA #4-2001
Ordinance
Pages 1 - 2
 California Coastal Commission

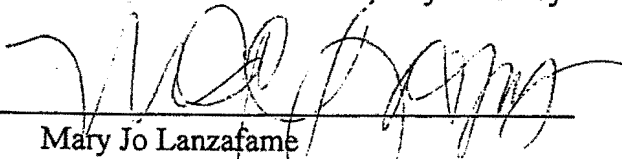
zone (previously referred to as the R1-6,000 zone), as described and defined by Section 131.0403 (previously found in SDMC section 101.0407), the boundary of such zone to be as indicated on Zone Map Drawing No. B-4113, filed in the office of the City Clerk as Document No. OO-19011. The zoning shall attach only to those areas included in the map as provided in this section.

Section 2. That in the event the zoning restrictions shall attach to the said land described in Section 1 of this ordinance, Ordinance No. O-9030 (New Series), adopted June 4, 1964, is repealed insofar as it conflicts with the rezoned uses of the land.

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. This ordinance shall take effect and be in force on the thirtieth day from and after the date the California Coastal Commission unconditionally certifies this ordinance as a local coastal program amendment, and no building permits for development inconsistent with the provisions of this ordinance shall be issued unless application therefor was made prior to the date of adoption of this ordinance.

APPROVED: CASEY GWINN, City Attorney

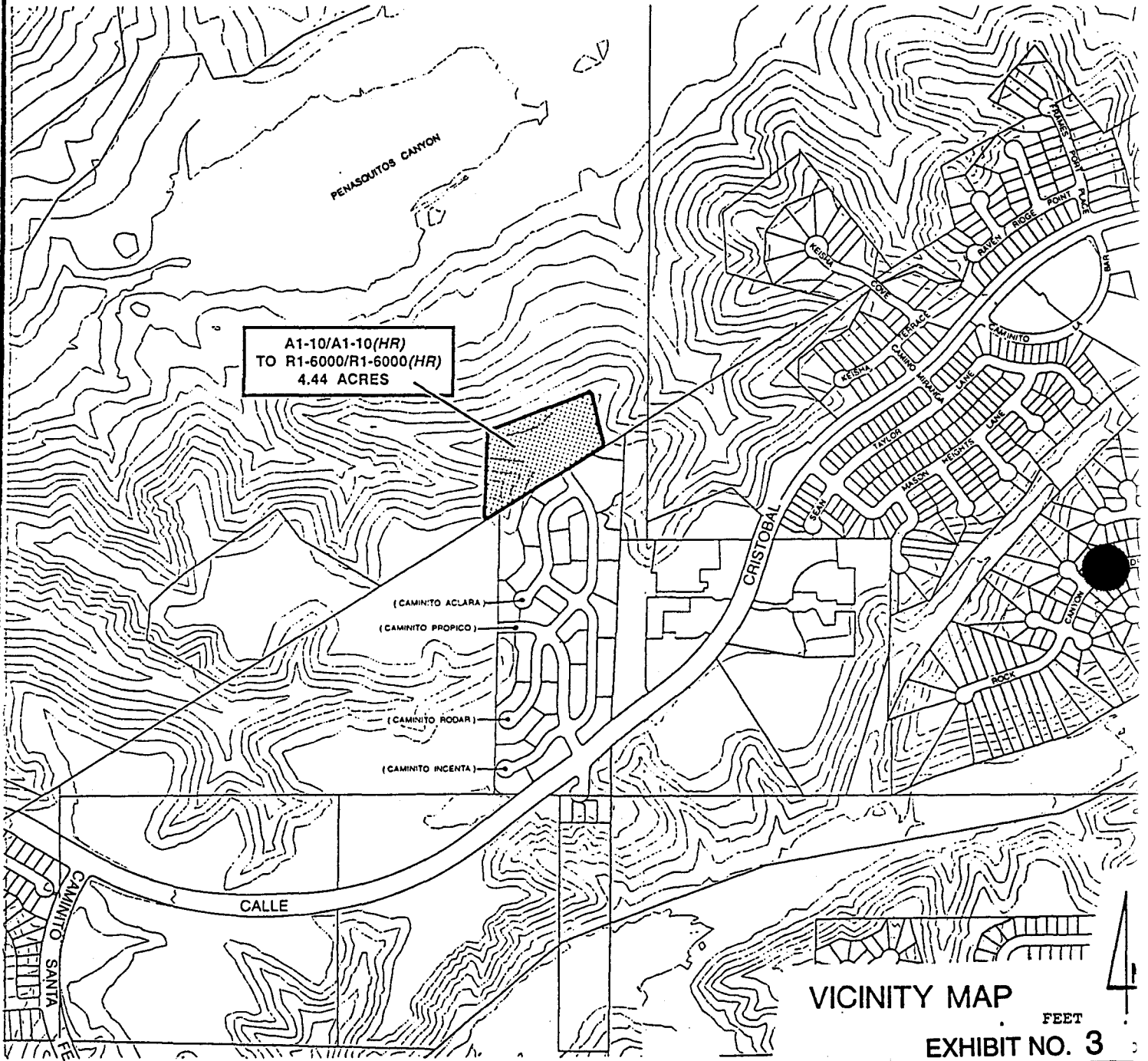
By 
Mary Jo Lanzafame
Deputy City Attorney

MJL:lc
10/12/01
Or.Dept:Dev.Svcs.
Case No.98-0792
O-2002-37
Form=insubo.frm



CITY OF SAN DIEGO • DEVELOPMENT SERVICES

PROPOSED REZONING



VICINITY MAP

FEET

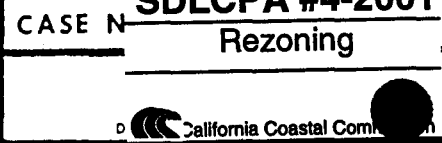
EXHIBIT NO. 3

APPLICATION NO.

SDLCPA #4-2001

Rezoning

CASE N



B - 4113

APN: 308-040-13

(276-1717) 9-15-98 bl.

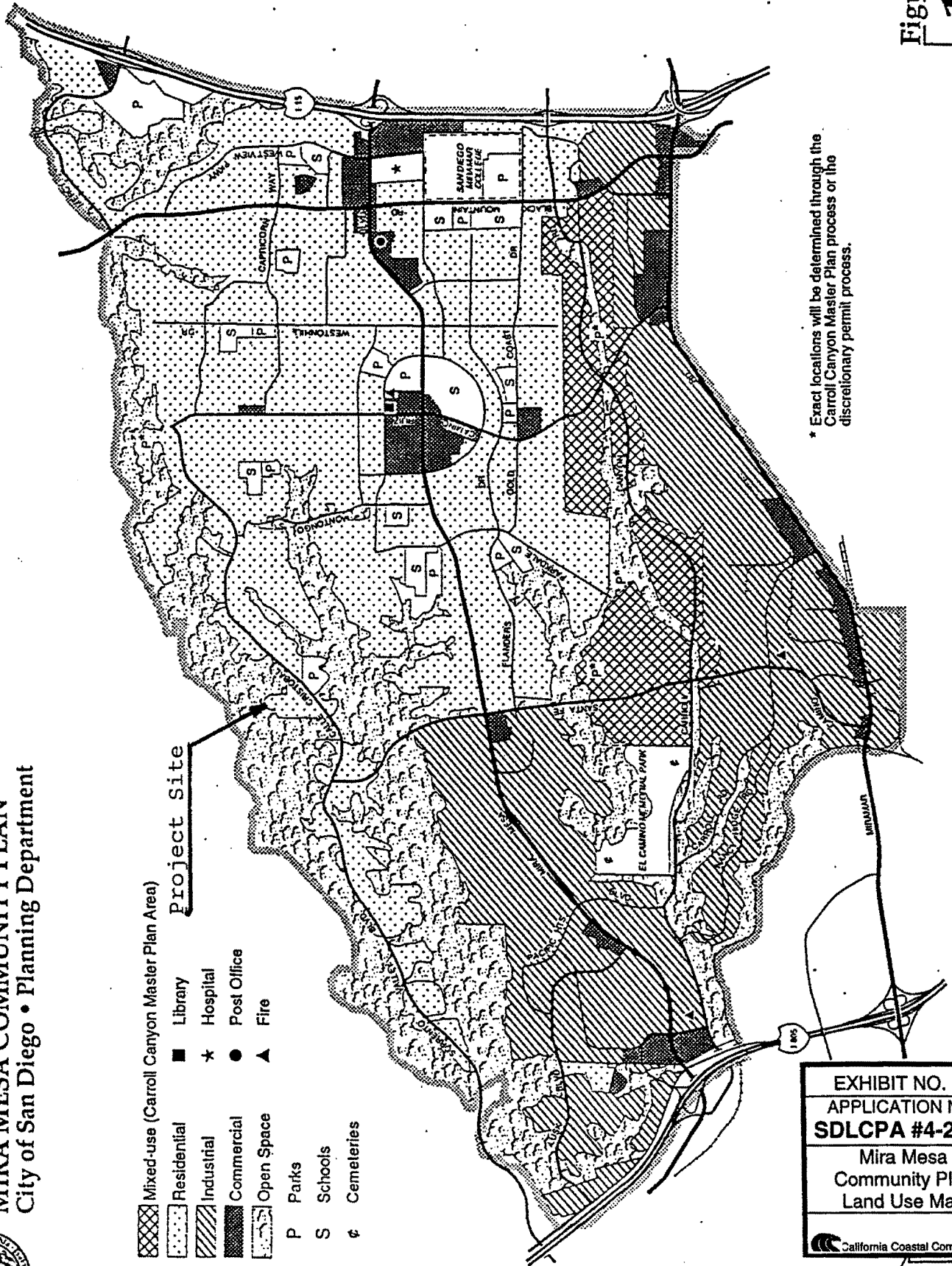
Portion of RANCHO LOS PENASQUITOS

ORDINANCE NO. _____
 EFF. DATE ORD. _____
 ZONING SUBJ. TO _____
 BEFORE DATE _____
 EFF. DATE ZONING _____
 MAP NAME & NO. _____

REQUEST R1-6000/R1-6000(HR)
 PLAN. COMM. RECOMMENDATION
 CITY COUNCIL ACTION

Land Use Map

MIRA MESA COMMUNITY PLAN
City of San Diego • Planning Department



- Mixed-use (Carroll Canyon Master Plan Area)**
- Residential
 - Industrial
 - Commercial
 - Open Space
 - P Parks
 - S Schools
 - C Cemeteries
 - Library
 - Hospital
 - Post Office
 - Fire
- Project Site**

EXHIBIT NO. 4
APPLICATION NO.
SDLCPA #4-2001
Mira Mesa
Community Plan
Land Use Map

* Exact locations will be determined through the Carroll Canyon Master Plan process or the discretionary permit process.

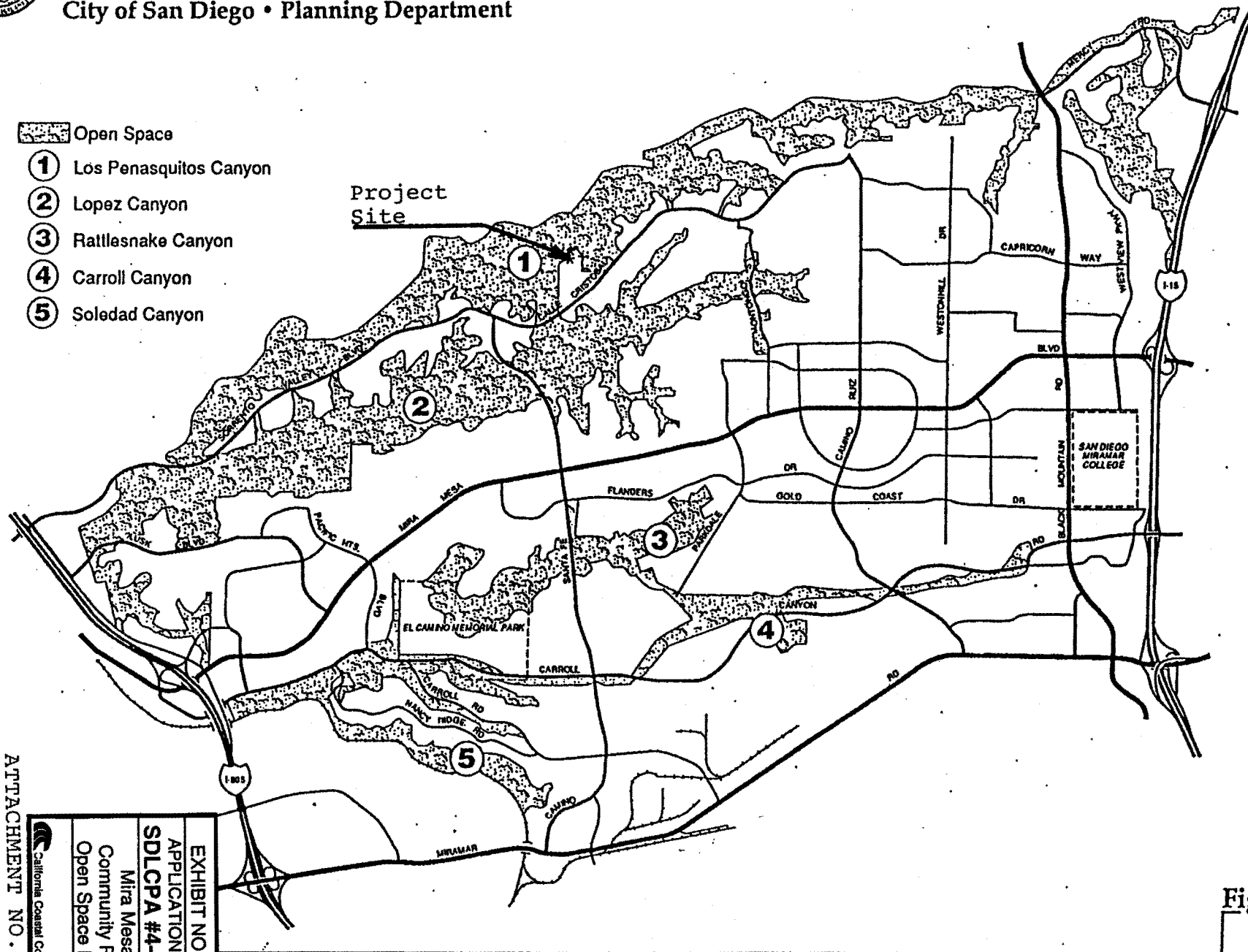
Figure **1**



Designated Open Space System

MIRA MESA COMMUNITY PLAN
City of San Diego • Planning Department

- Open Space
- ① Los Penasquitos Canyon
- ② Lopez Canyon
- ③ Rattlesnake Canyon
- ④ Carroll Canyon
- ⑤ Soledad Canyon



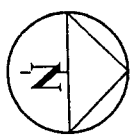
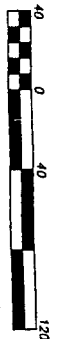
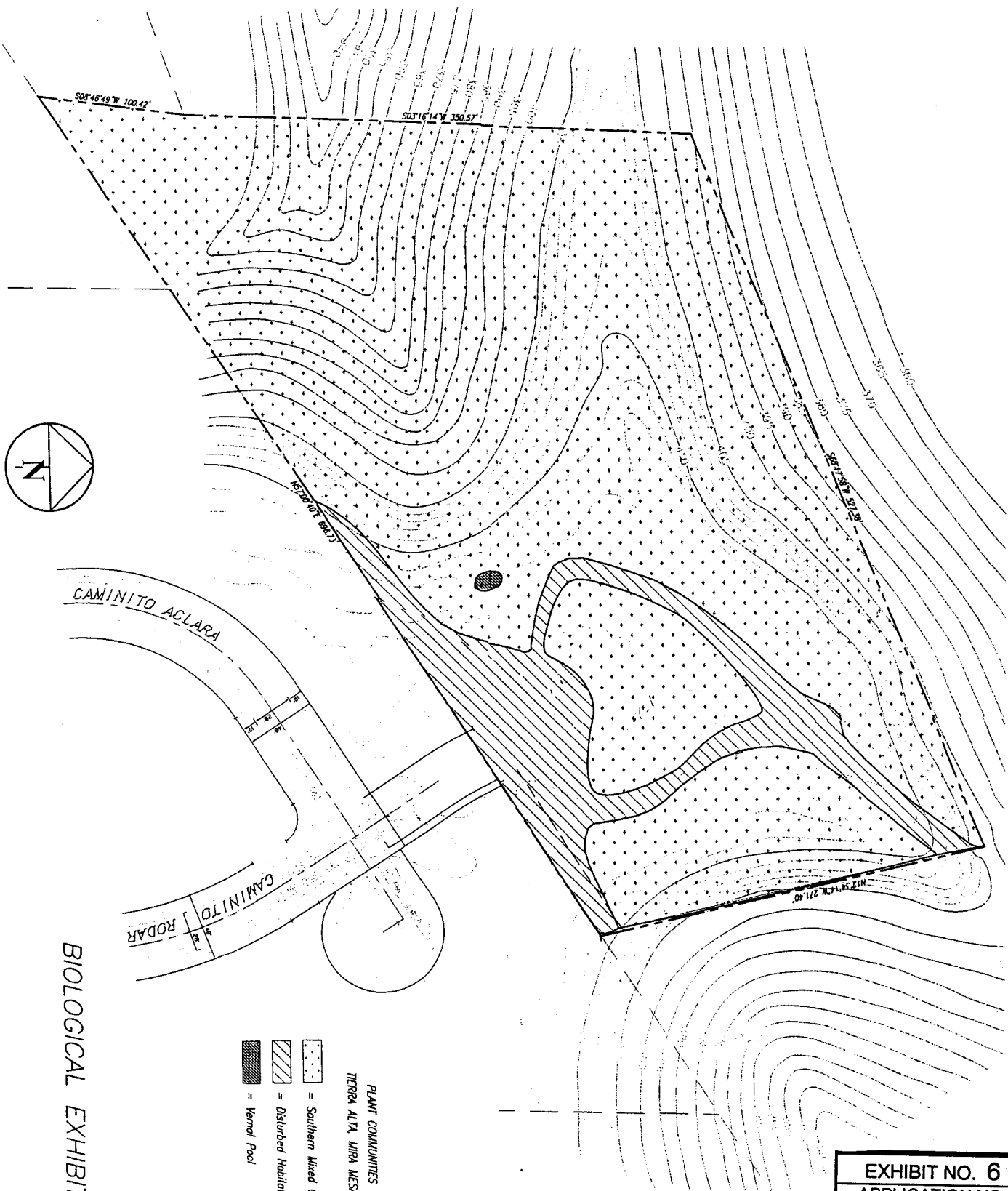
Page 2 of 2

ATTACHMENT NO. 1

EXHIBIT NO. 5
APPLICATION NO.
SDLCPA #4-2001
Mira Mesa Community Plan Open Space Map

Figure

6



BIOLOGICAL EXHIBIT




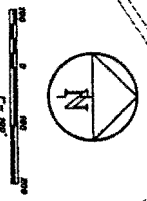
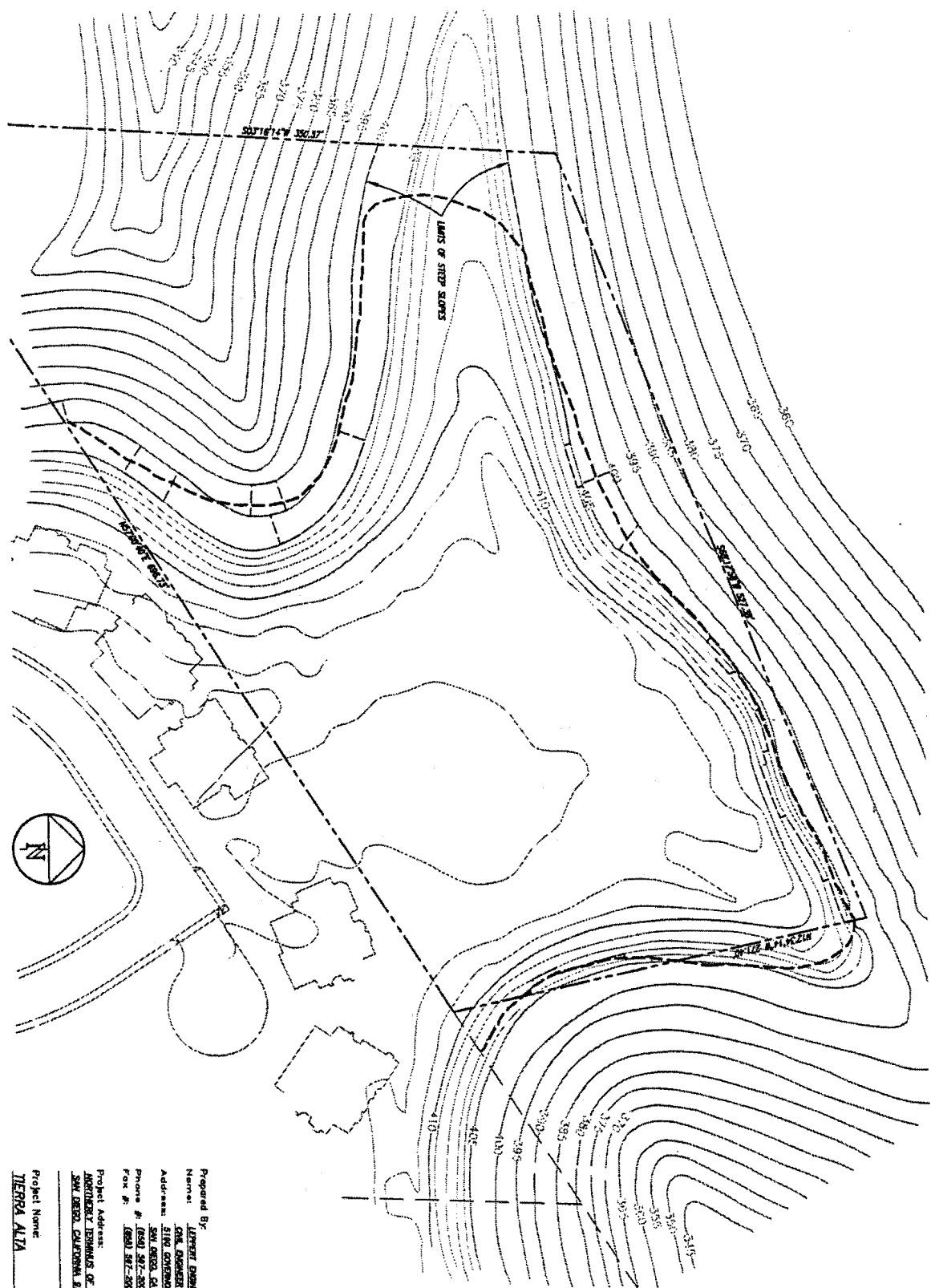
- PLANT COMMUNITIES
 TERRA ALTA, MIRA MESA
-  = Southern Mixed Chaparral
 -  = Disturbed Habitat
 -  = Vernal Pool

EXHIBIT NO. 6
 APPLICATION NO.
SDLCPA #4-2001

Biological

California Coastal Commission



Prepared By: **LEPPERT ENGINEERING CORP.**
 Name: **CARL DUNN**
 Address: **5170 GARDEN DR. SUITE 100**
ANAHEIM, CA 92805
 Phone #: **(714) 931-1111**
 Fax #: **(714) 931-1112**

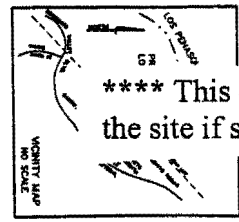
Project Address:
NORTHERN IRVING'S OF CHANDLER ROAD
ANAHEIM, CALIFORNIA 92816

Project Name:
TERRA ALTA

Original Date: **10/16/02**

Sheet Title: _____
 Sheet 1 of 2

DCP# _____



This exhibit provides one potential division of the site if split zoning were to be applied.

LEGEND:
 SHADINGS: BOUNDARY
 EXISTING CONTOURS

EXHIBIT NO. _____
 APPLICATION NO.
SDLCPA #4-2001
 Potential
 Alternative



SITE PLAN

TIERRA ALTA • 98-0792

CITY OF SAN DIEGO • DEVELOPMENT SERVICES DEPARTMENT

No Scale

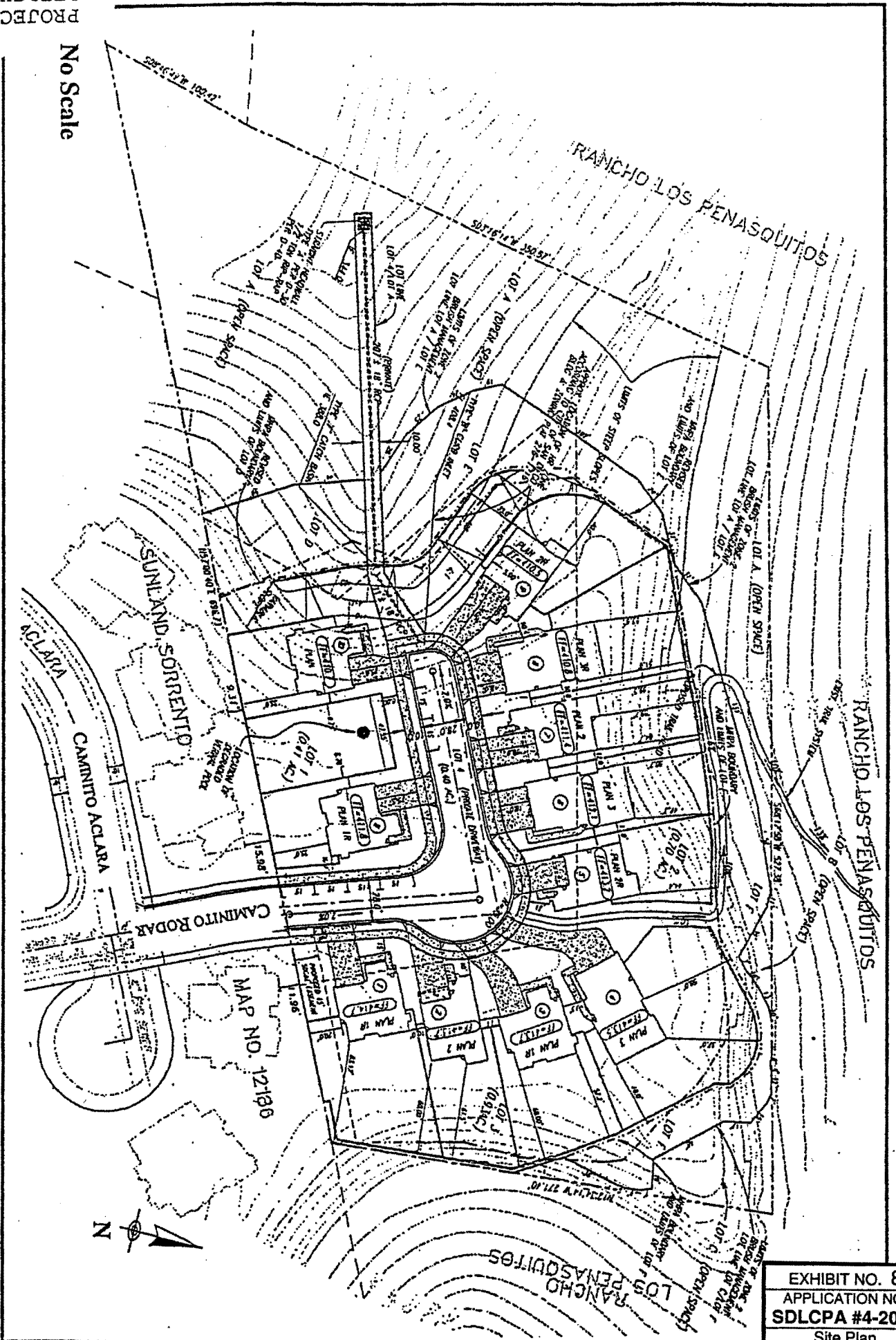


EXHIBIT NO. 8
 APPLICATION NO.
SDLCPA #4-200
 Site Plan
 Approved by City
 with Rezone

Figure
2

Article 1: Base Zones

Division 2: Open Space Base Zones

§ 131.0201 Purpose of Open Space Zones

The purpose of the open space zones is to protect lands for outdoor recreation, education, and scenic and visual enjoyment; to control urban form and design; and to facilitate the preservation of *environmentally sensitive lands*. It is intended that these zones be applied to lands where the *primary uses* are parks or open space or to private land where *development* must be limited to implement open space policies of adopted *land use plans* or applicable federal and state regulations and to protect the public health, safety, and welfare.

§ 131.0202 Purpose of the OP (Open Space--Park) Zones

- (a) The purpose of the OP zones is to be applied to *public parks* and facilities, once they are dedicated as park land pursuant to City Charter Section 55 in order to promote recreation and facilitate the implementation of *land use plans*. The uses permitted in these zones will provide for various types of recreational needs of the community.
- (b) The OP zones are differentiated based on the uses allowed as follows:
 - OP-1-1 allows developed, active parks
 - OP-2-1 allows parks for passive uses with some active uses

§ 131.0203 Purpose of the OC (Open Space--Conservation) Zone

The purpose of the OC zone is to protect natural and cultural resources and *environmentally sensitive lands*. It is intended that the uses permitted in this zone be limited to aid in the preservation of the natural character of the land, thereby implementing *land use plans*.

§ 131.0204 Purpose of the OR (Open Space--Residential) Zones

- (a) The purpose of the OR zones is to preserve privately owned property that is designated as open space in a *land use plan* for such purposes as preservation of public health and safety, visual quality, *sensitive biological resources*, *steep hillsides*, and control of urban form, while retaining private *development* potential. These zones are also intended to help implement the habitat preservation goals of the City and the *MHPA* by applying development restrictions to lands wholly or partially within the boundaries of the *MHPA*. *Development* in these zones will be limited to help preserve the natural resource values and open space character of the land.
- (b) The OR zones are differentiated based on the uses allowed as follows:
 - OR-1-1 allows open space with limited private residential *development*
 - OR-1-2 allows open space with limited private residential *development* and to implement the *MHPA*

EXHIBIT NO. 9
APPLICATION NO.
SDLCPA #4-2001
Suggested Zone
OR-1-1
Pages 1 - 17
California Coastal Commission

§ 131.0205 Purpose of the OF (Open Space--Floodplain) Zone

The purpose of the OF zone is to control *development* within floodplains to protect the public health, safety, and welfare and to minimize hazards due to *flooding* in areas identified by the FIRM on file with the City's floodplain administrator. It is the intent of the OF zone to preserve the natural character of floodplains while permitting *development* that will not constitute a dangerous condition or an impediment to the flow of floodwaters. It is also the intent to minimize the expenditure of public money for costly *flood* control projects and to protect the functions and values of the floodplains relating to groundwater recharge, water quality, moderation of *flood* flows, wildlife movement, and habitat.

§ 131.0215 Where Open Space Zones Apply

On the effective date of Ordinance O-18691, all open space zones that were established in Municipal Code Chapter 10, Article 1, Division 4 shall be amended and replaced with the base zones established in this division, as shown in Table 131-02A.

Table 131-02A
Open Space Zone Applicability

Previous Chapter 10 Open Space Zone Replaced with New Open Space Zone Established by this Division	
Open Space Zone that Existed on December 31, 1999.	Applicable Zone of this Division
OS-OSP	OP-2-1
OS-P, OS-R	OP-1-1
FC, FW	OF-1-1
OS-TDR	None
No Existing Zone	OC-1-1
No Existing Zone	OR-1-1
No Existing Zone	OR-1-2

§ 131.0220 Use Regulations of Open Space Zones

The regulations of Section 131.0222 apply in the open space zones unless otherwise specifically provided by footnotes indicated in Table 131-02B. The uses permitted in any zone may be further limited if *environmentally sensitive lands* are present, pursuant to Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations).

- (a) Within the open space zones no *structure* or improvement, or portion thereof, shall be constructed, established, or altered nor shall any *premises* be used or maintained except for one or more of the purposes or activities listed in Table 131-02B. It is unlawful to establish, maintain, or use any *premises* for any purpose or activity inconsistent with this section or Section 131.0222.

- (b) All uses or activities permitted in the open space zones shall be conducted entirely within an enclosed building unless the use or activity is traditionally conducted outdoors.
- (c) *Accessory uses* in the open space zones may be permitted in accordance with Section 131.0125.
- (d) Temporary uses may be permitted in the open space zones for a limited period of time with a Temporary Use Permit in accordance with Chapter 12, Article 3, Division 4 (Temporary Use Permit Procedures).
- (e) For any use that cannot be readily classified, the City Manager shall determine the appropriate use category and use subcategory pursuant to Section 131.0110.

§ 131.0222 Use Regulations Table for Open Space Zones

The uses allowed in the open space zones are shown in Table 131-02B.

Legend for Table 131-02B

Symbol in Table 131-02B	Description of Symbol
P	Use or use category is permitted. Regulations pertaining to a specific use may be referenced.
L	Use is permitted with limitations, which may include location limitations or the requirement for a use or <i>development permit</i> . Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
N	Neighborhood Use Permit Required. Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
C	Conditional Use Permit Required. Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
-	Use or use category is not permitted.

**Table 131-02B
Use Regulations Table of Open Space Zones**

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones					
	1st & 2nd »	3rd »	OP-		OC-	OR ⁽¹⁾ -		OF ⁽¹²⁾ -
			1-	2-	1-	1-	1-	
			1	1	1	1	2	1
Open Space								
Active Recreation	P	P ⁽²⁾	-	-	-	-	-	P ⁽⁷⁾
Passive Recreation	P	P	P ⁽⁶⁾	P ⁽⁶⁾	P ⁽⁶⁾	P ⁽⁶⁾	P ⁽⁶⁾	P ⁽⁶⁾
Natural Resources Preservation	P	P	P	P	P	P	P	P
Park Maintenance Facilities	P	P ⁽²⁾	-	-	-	-	-	-

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones					
	1st & 2nd »		OP-		OC-	OR ⁽¹⁾ -		OF ⁽¹²⁾ -
	3rd »		1-	2-	1-	1-		1-
	4th »		1	1	1	1	2	1
Agriculture								
Agricultural Processing	-	-	-	-	-	-	-	P ⁽⁵⁾
Aquaculture Facilities	-	-	-	-	-	P	-	P ⁽⁷⁾
Dairies	-	-	-	-	-	-	-	-
Horticulture Nurseries & Greenhouses	-	-	-	-	-	-	-	-
Raising & Harvesting of Crops	-	-	-	-	-	P	-	P
Raising, Maintaining & Keeping of Animals	-	-	-	-	-	P ⁽⁴⁾	-	P ⁽⁴⁾
Separately Regulated Agriculture Uses								
Agricultural Equipment Repair Shops	-	-	-	-	-	-	-	-
Commercial Stables	-	C	-	-	-	C	-	C
Community Gardens	-	N	-	-	-	N	-	L
Equestrian Show & Exhibition Facilities	-	-	-	-	-	-	-	-
Open Air Markets for the Sale of Agriculture-Related Products & Flowers	-	-	-	-	-	L	-	L
Residential								
Group Living Accommodations	-	-	-	-	-	-	-	-
Mobilehome Parks	-	-	-	-	-	-	-	-
Multiple Dwelling Units	-	-	-	-	-	-	-	-
Single Dwelling Units	-	-	-	-	-	P	-	-
Separately Regulated Residential Uses:								
Boarder & Lodger Accommodations	-	-	-	-	-	L	-	-
Companion Units	-	-	-	-	-	C	-	-
Employee Housing:								
6 or Fewer Employees	-	-	-	-	-	L ⁽¹⁰⁾	-	-
12 or Fewer Employees	-	-	-	-	-	L ⁽¹⁰⁾	-	-
Greater than 12 Employees	-	-	-	-	-	-	-	-
Fraternities, Sororities and Student Dormitories	-	-	-	-	-	-	-	-
Garage, Yard, & Estate Sales	-	-	-	-	-	L	-	-
Guest Quarters	-	-	-	-	-	N	-	-
Home Occupations	-	-	-	-	-	L	-	-
Housing for Senior Citizens	-	-	-	-	-	-	-	-
Live/work Quarters	-	-	-	-	-	-	-	-
Residential Care Facilities:								

Use Categories/Subcategories, [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones				
	1st & 2nd »	3rd »	OP-		OC-	OR ⁽¹⁾	OF ⁽¹²⁾
			1-	2-	1-	1-	1-
			1	1	1	1	2
6 or Fewer Persons	-	-	-	-	P	-	
7 or More Persons	-	-	-	-	C	-	
Transitional Housing:							
6 or Fewer Persons	-	-	-	-	P	-	
7 or More Persons	-	-	-	-	C	-	
Watchkeeper Quarters	-	-	-	-	-	-	
Institutional							
Separately Regulated Institutional Uses							
Airports	-	-	-	-	-	-	
Botanical Gardens & Arboretums	P	P	-	-	-	-	
Cemeteries, Mausoleums, Crematories	-	-	-	-	-	-	
Churches & Places of Religious Assembly	-	-	-	-	C	-	
Communication Antennas:							
Minor Telecommunication Facility	L	L	-	-	L	L	
Major Telecommunication Facility	C	C	-	-	C	C	
Satellite Antennas	L	L	L	-	L	L	
Correctional Placement Centers	-	-	-	-	-	-	
Educational Facilities:							
Kindergarten Through Grade 12	-	-	-	-	-	-	
Colleges / Universities	-	-	-	-	-	-	
Vocational / Trade Schools	-	-	-	-	-	-	
Energy Generation & Distribution Facilities	-	-	-	-	-	-	
Exhibit Halls & Convention Facilities	P ⁽²⁾	-	-	-	-	-	
Flood Control Facilities	-	-	-	-	-	L	
Historical Buildings Used for Purposes Not Otherwise Allowed	-	-	-	-	-	-	
Homeless Facilities:							
Congregate Meal Facilities	-	-	-	-	-	-	
Emergency Shelters	-	-	-	-	-	-	
Homeless Day Centers	-	-	-	-	-	-	
Hospitals, Intermediate Care Facilities & Nursing Facilities	-	-	-	-	-	-	
Interpretive Centers	P	P ⁽²⁾	C	-	-	-	
Museums	P	-	-	-	-	-	

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones				
	1st & 2nd »	OP-		OC-	OR ⁽¹⁾ -		OF ⁽¹²⁾ -
		1-	2-	1-	1-		1-
		1	1	1	1	2	1
Major Transmission, Relay, or Communications Switching Stations	-	-	-	-	-	-	-
<i>Social Service Institutions</i>	-	-	-	-	-	-	-
Retail Sales							
Building Supplies & Equipment	-	-	-	-	-	-	-
Food, Beverages and Groceries	-	-	-	-	-	-	-
Consumer Goods, Furniture, Appliances, Equipment	-	-	-	-	-	-	-
Pets & Pet Supplies	-	-	-	-	-	-	-
Sundries, Pharmaceuticals, & Convenience Sales	-	-	-	-	-	-	-
Wearing Apparel & Accessories	-	-	-	-	-	-	-
Separately Regulated Retail Sales Uses:							
Agriculture Related Supplies & Equipment	-	-	-	-	-	-	-
Alcoholic Beverage Outlets	-	-	-	-	-	-	-
Plant Nurseries	-	-	-	-	-	-	-
Swap Meets & Other Large Outdoor Retail Facilities	-	-	-	-	-	-	C ⁽⁷⁾
Commercial Services							
Building Services	-	-	-	-	-	-	-
Business Support	-	-	-	-	-	-	-
Eating & Drinking Establishments	P ⁽²⁾	-	-	-	-	-	-
Financial Institutions	-	-	-	-	-	-	-
Funeral & Mortuary Services	-	-	-	-	-	-	-
Maintenance & Repair	-	-	-	-	-	-	-
Off-site Services	-	-	-	-	-	-	-
Personal Services	-	-	-	-	-	-	-
Assembly & Entertainment	P ⁽²⁾	-	-	-	-	-	-
Radio & Television Studios	-	-	-	-	-	-	-
Visitor Accommodations	-	-	-	-	-	-	-
Separately Regulated Commercial Services Uses							
Adult Entertainment Establishments:							
Adult Book Store	-	-	-	-	-	-	-
Adult Cabaret	-	-	-	-	-	-	-
Adult Drive-In Theater	-	-	-	-	-	-	-
Adult Mini-Motion Picture Theater	-	-	-	-	-	-	-

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones					
	1st & 2nd »		OP-		OC-	OR ⁽¹⁾ -		OF ⁽¹²⁾ -
	3rd »		1-	2-	1-	1-		1-
	4th »		1	1	1	1	2	1
Adult Model Studio	-	-	-	-	-	-	-	
Adult Motel	-	-	-	-	-	-	-	
Adult Motion Picture Theater	-	-	-	-	-	-	-	
Adult Peep Show Theater	-	-	-	-	-	-	-	
Adult Theater	-	-	-	-	-	-	-	
Body Painting Studio	-	-	-	-	-	-	-	
Massage Establishment	-	-	-	-	-	-	-	
Sexual Encounter Establishment	-	-	-	-	-	-	-	
Bed & Breakfast Establishments:								
1-2 Guest Rooms	-	-	-	-	N	-	-	
3-5 Guest Rooms	-	-	-	-	N	-	-	
6+ Guest Rooms	-	-	-	-	C	-	-	
Boarding Kennels	-	-	-	-	-	-	-	
Camping Parks	C	C	-	-	-	-	C ⁽⁷⁾	
Child Care Facilities:								
Child Care Centers	C ⁽²⁾	-	-	-	-	-	-	
Large Family Day Care Homes	-	-	-	-	L	-	-	
Small Family Day Care Homes	-	-	-	-	P	-	-	
Eating and Drinking Establishments Abutting Residentially Zoned Property	-	-	-	-	-	-	-	
Fairgrounds	-	-	-	-	-	-	C ⁽⁷⁾	
Golf Courses, Driving Ranges, and Pitch & Putt Courses	C	C	-	-	C ⁽⁹⁾	-	C ⁽¹¹⁾	
Helicopter Landing Facilities	-	-	-	-	-	-	C ⁽¹¹⁾	
Instructional Studios	C	C	-	-	-	-	-	
Massage Establishments, Specialized Practice	-	-	-	-	-	-	-	
Nightclubs & Bars over 5,000 square feet in size	-	-	-	-	-	-	-	
Outpatient Medical Clinics	-	-	-	-	-	-	-	
Parking Facilities as a primary use:								
Permanent Parking Facilities	-	-	-	-	-	-	-	
Temporary Parking Facilities	-	-	-	-	-	-	-	
Private Clubs, Lodges and Fraternal Organizations	-	-	-	-	-	-	-	
Privately Operated, Outdoor Recreation Facilities over 40,000 square feet in size ⁽³⁾	C ⁽²⁾	-	-	-	-	-	-	

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones					
	1st & 2nd »	OP-		OC-	OR ⁽¹⁾ -		OF ⁽¹²⁾ -	
		3rd »	1-	2-	1-	1-		1-
			4th »	1	1	1	1	2
Pushcarts:								
Pushcarts on Private Property	L	-	-	-	-	-	-	
Pushcarts in Public-Right-of-Way	N	-	-	-	-	-	-	
Recycling Facilities:								
Large Collection Facility	-	-	-	-	-	-	-	
Small Collection Facility	-	-	-	-	-	-	-	
Large Construction & Demolition Debris <i>Recycling Facility</i>	-	-	-	-	-	-	-	
Small Construction & Demolition Debris <i>Recycling Facility</i>	-	-	-	-	-	-	-	
Drop-off Facility	L	L	-	-	-	-	-	
Green Materials Composting Facility	-	-	-	-	-	-	-	
Mixed Organic Composting Facility	-	-	-	-	-	-	-	
Large Processing Facility Accepting at Least 98% of Total Annual Weight of Recyclables from Commercial & Industrial Traffic	-	-	-	-	-	-	-	
Large Processing Facility Accepting All Types of Traffic	-	-	-	-	-	-	-	
Small Processing Facility Accepting at Least 98% of Total Annual Weight of Recyclables From Commercial & Industrial Traffic	-	-	-	-	-	-	-	
Small Processing Facility Accepting All Types of Traffic	-	-	-	-	-	-	-	
Reverse Vending Machines	-	-	-	-	-	-	-	
Tire Processing Facility	-	-	-	-	-	-	-	
Sidewalk Cafes	-	-	-	-	-	-	-	
Sports Arenas & Stadiums	-	-	-	-	-	-	-	
Theaters that are outdoor or over 5,000 square feet in size	P ⁽²⁾	-	-	-	-	-	-	
Veterinary Clinics & Animal Hospitals	-	-	-	-	-	-	-	
Zoological Parks	C	-	-	-	-	-	-	
Offices								
Business & Professional	-	-	-	-	-	-	-	
Government	-	-	-	-	-	-	-	
Medical, Dental, & Health Practitioner	-	-	-	-	-	-	-	
Regional & Corporate Headquarters	-	-	-	-	-	-	-	
Separately Regulated Office Uses:								
Real Estate Sales Offices & Model Homes	-	-	-	L	-	-	-	
<i>Sex Offender</i> Treatment & Counseling	-	-	-	-	-	-	-	

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones				
	1st & 2nd »	OP-		OC-	OR ⁽¹⁾	OF ⁽¹²⁾
	3rd »	1-	2-	1-	1-	1-
	4th »	1	1	1	1	2
Vehicle & Vehicular Equipment Sales & Service						
Commercial Vehicle Repair & Maintenance	-	-	-	-	-	-
Commercial Vehicle Sales & Rentals	-	-	-	-	-	-
Personal Vehicle Repair & Maintenance	-	-	-	-	-	-
Personal Vehicle Sales & Rentals	-	-	-	-	-	-
Vehicle Equipment & Supplies Sales & Rentals	-	-	-	-	-	-
Separately Regulated Vehicle & Vehicular Equipment Sales & Service Uses:						
Automobile Service Stations	-	-	-	-	-	-
Outdoor Storage & Display of New, Unregistered Motor Vehicles as a Primary Use	-	-	-	-	-	-
Wholesale, Distribution, Storage						
Equipment & Materials Storage Yards	-	-	-	-	-	-
Moving & Storage Facilities	-	-	-	-	-	-
Warehouses	-	-	-	-	-	-
Wholesale Distribution	-	-	-	-	-	-
Separately Regulated Wholesale, Distribution, and Storage Uses:						
Impound Storage Yards	-	-	-	-	-	-
Junk Yards	-	-	-	-	-	-
Temporary Construction Storage Yards Located Off-site	-	-	-	-	-	-
Industrial						
Heavy Manufacturing	-	-	-	-	-	-
Light Manufacturing	-	-	-	-	-	-
Marine Industry	-	-	-	-	-	-
Research & Development	-	-	-	-	-	-
Trucking & Transportation Terminals	-	-	-	-	-	-
Separately Regulated Industrial Uses:						
Hazardous Waste Research Facility	-	-	-	-	-	-
Hazardous Waste Treatment Facility	-	-	-	-	-	-
Marine Related Uses Within the Coastal Overlay Zone	-	-	-	-	-	-
Mining and Extractive Industries	-	-	-	C ⁽⁸⁾	C ⁽⁷⁾	-
Newspaper Publishing Plants	-	-	-	-	-	-

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones				
	1st & 2nd »	OP-		OC-	OR ⁽¹⁾ -		OF ⁽¹²⁾ -
		1-	2-	1-	1-		1-
		1	1	1	1	2	1
Processing & Packaging of Plant Products & Animal By-Products Grown Off-Premises	-	-	-	-	-	-	-
Very Heavy Industrial Uses	-	-	-	-	-	-	-
Wrecking & Dismantling of Motor Vehicles	-	-	-	-	-	-	-
Signs							
Allowable Signs	P	P	P	P	P	P	P
Separately Regulated Signs Uses:							
Community Identification Signs	-	-	-	-	-	-	-
Reallocation of Sign Area Allowance	-	-	-	-	-	-	-
Revolving Projecting Signs	-	-	-	-	-	-	-
Signs with Automatic Changing Copy	-	-	-	-	-	-	-
Theater Marquees	-	-	-	-	-	-	-

Footnotes for Table 131-02B

- 1 All uses in the OR zone, except passive recreation and natural resource preservation, shall be located within the allowable development area in accordance with Section 131.0250.
- 2 This use is permitted only if consistent with an approved park general development plan or master plan and is subject to any requirements identified in the plan.
- 3 The 40,000 square feet includes all indoor and outdoor areas that are devoted to the recreational use; it does not include customer parking areas.
- 4 Excluding the maintaining, raising, feeding, or keeping of swine. The maintaining, raising, feeding, or keeping of more than 10 domestic animals requires a *premises* of at least 5 acres.
- 5 Excluding storage of vehicles, containers, chemicals, and other items that may be hazards during or after a *flood*.
- 6 The City Manager will determine if a particular use is appropriate as a passive use in conformance with an approved development plan, park plan, or other plans applicable to the property.
- 7 No *structures*, except portable *structures*, are permitted within a *floodway*.

- 8 This use is only allowed in the OR-1-2 zone subject to the regulations in Section 141.1001 and the regulations in Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations).
- 9 No driving ranges or night use are permitted within the *MHPA*.
- 10 For housing 6 or fewer employees, see Section 141.0303 to determine which use regulations apply.
- 11 No fill or permanent structures shall be authorized for such development in the Coastal Overlay Zone.
- 12 Within the Coastal Overlay Zone, no structures are permitted within a floodway.

§ 131.0230 Development Regulations of Open Space Zones

- (a) Within the open space zones no *structure* or improvement shall be constructed, established, or altered, nor shall any *premises* be used unless the *premises* complies with the regulations and standards in this division and with any applicable development regulations in Chapter 13, Article 2 (Overlay Zones) and Chapter 14 (General and Supplemental Regulations).
- (b) A Neighborhood Development Permit or Site Development Permit is required for the types of *development* identified in Table 143-03A.
- (c) The regulations in this division apply to all *development* in the open space base zones whether or not a permit or other approval is required except where specifically identified.

§ 131.0231 Development Regulations Table for Open Space Zones

The following development regulations apply in the open space zones as shown in Table 131-02C.

**Table 131-02C
Development Regulations of Open Space Zones**

Development Regulations [See Section 131.0230 for Development Regulations of Open Space Zones]	Zone Designator		Zones					
	1st & 2nd »	3rd »	OP-		OC-	OR-		OF ⁽¹⁾
			1-	2-	1-	1-	1-	1-
			1		1	1	2	1
Max Permitted Residential Density (DU Per Lot)			--	--	1 ⁽²⁾	1 ⁽⁵⁾	--	
Min Lot Area (ac)			--	--	10	10	10	
Allowable Development Area (%)			--	--	25 ⁽³⁾	25 ⁽⁴⁾	--	
Min Lot Dimensions								
Lot Width (ft)			--	--	200	200	500	
Street Frontage (ft)			--	--	200	200	500	

Development Regulations [See Section 131.0230 for Development Regulations of Open Space Zones]	Zone Designator		Zones				
	1st & 2nd »	OP-		OC-	OR-		OF ⁽¹⁾
		1-	2-	1-	1-	1-	1-
	3rd »	1		1	2	1	
4th »	1		1	2	1		
Lot Depth (ft)	--		--	200	200	500	
Setback Requirements							
Min Front Setback (ft)	--		--	25	25	--	
Min Side Setback (ft)	--		--	20	20	--	
Min Rear Setback (ft)	--		--	25	25	--	
Max Structure Height (ft)	--		--	30	30	--	
Max Lot Coverage (%)	--		--	10	10	--	
Max Floor Area Ratio	--		--	0.10	0.10	--	

Footnotes for Table 131-02C

- 1 Refer to Section 143.0145 for supplemental development regulations for the OF zone.
- 2 See Section 131.0240(a).
- 3 See Section 131.0250(a).
- 4 See Section 131.0250(b).
- 5 See Section 131.0240(b).

§ 131.0240 Maximum Permitted Residential Density in Open Space Zones

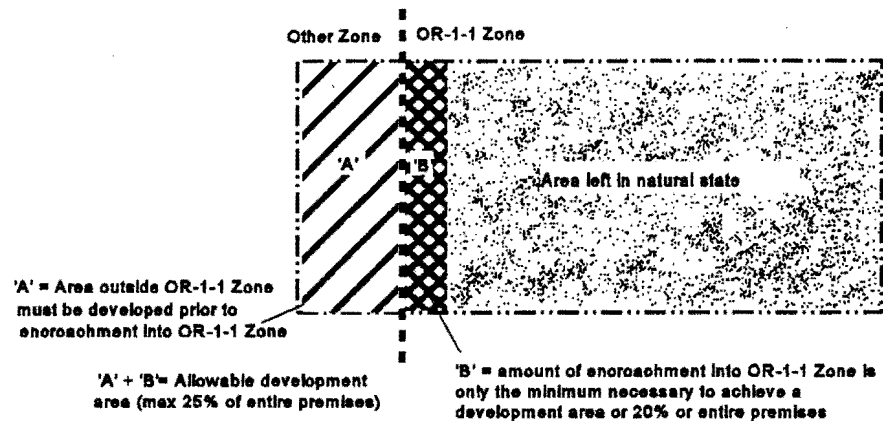
- (a) Within the OR-1-1 zone, an exception to the permitted residential density of one *single dwelling unit per lot* may be requested as a rural cluster development through a Planned Development Permit in accordance with Process Four subject to the following:
 - (1) The proposed *development* shall comply with Chapter 14, Article 3, Division 4 (Planned Development Permit Regulations).
 - (2) Dwelling units shall be clustered within the allowable development area as described in Section 131.0250(a) and need not be located on individual *lots* provided the overall *density* does not exceed one dwelling unit per 10 acres.
 - (3) The remainder of the *premises* shall be maintained in its natural state.
- (b) Within the OR-1-2 zone, an exception to the permitted residential *density* of one *single dwelling unit per lot* may be requested as a rural cluster development through a Planned Development Permit in accordance with Process Four subject to the following:

- (1) The proposed *development* shall comply with Chapter 14, Article 3, Division 4 (Planned Development Permit Regulations).
- (2) Dwelling units shall be clustered within the allowable development area as described in Section 131.0250(b) and need not be located on individual *lots* provided the overall *density* does not exceed one dwelling unit per 10 acres, except as described in Section 131.0240(b)(4).
- (3) The remainder of the *premises* shall be maintained in its natural state.
- (4) Within the future urbanizing area, an increase in *density* of up to one dwelling unit per 4 acres of lot area may be requested through a Planned Development Permit in accordance with Process Five subject to the regulations in Section 143.0402. The remainder of the *premises* shall be left undeveloped in perpetuity.

§ 131.0250 Allowable Development Area in OR Zones

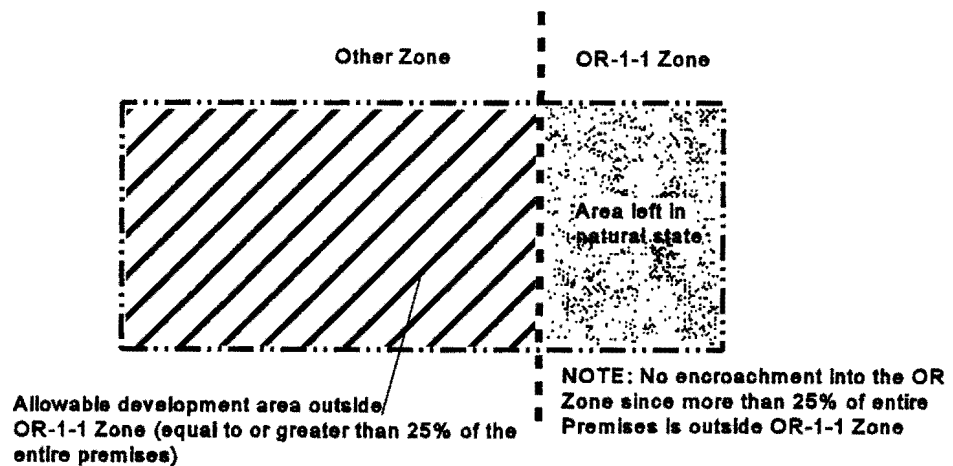
- (a) Within the OR-1-1 zone, up to 25 percent of the *premises* may be developed subject to the following:
 - (1) If 25 percent or more of the entire site is not in its natural state due to existing *development*, any new *development* proposed shall occur within the disturbed portion of the site and no additional development area is permitted.
 - (2) If the OR-1-1 zone applies only to a portion of a *premises*, the following regulations apply:
 - (A) If less than 25 percent of the *premises* is outside the OR-1-1 zone, the portion that is outside the OR-1-1 zone shall be developed before any *encroachment* into the OR-1-1 zoned portion. *Encroachment* into the OR-1-1 zone may be permitted to achieve a maximum development area of 25 percent of the entire site. See Diagram 131-02A.

Diagram 131-02A
Allowable Development Area with Encroachment into OR-1-1 Zone



- (B) If more than 25 percent of the *premises* is outside the OR-1-1 zone, the area outside the OR-1-1 zone may be developed and no additional development area is permitted. See Diagram 131-02B.

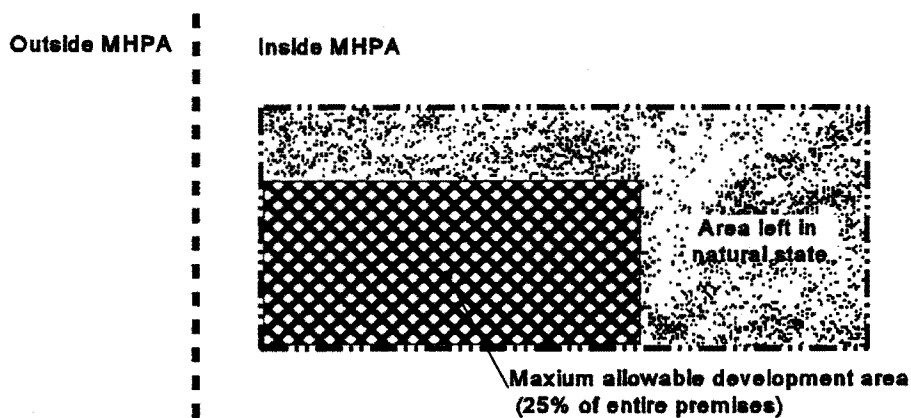
Diagram 131-02B
Allowable Development Area Without Encroachment into OR-1-1 Zone



- (3) Within the Coastal Overlay Zone, only uses identified in Section 143.0130 (d) and (e) shall be permitted within *wetlands* subject to the provisions of Section 143.0141 (a) and (b).
- (4) Within the Coastal Overlay Zone, *coastal development* on *premises* with *steep hillsides* containing *sensitive biological resources*, or mapped as Viewshed or Geologic hazard on Map C-720, is subject to the encroachment limitations set forth in Section 143.0142(a).

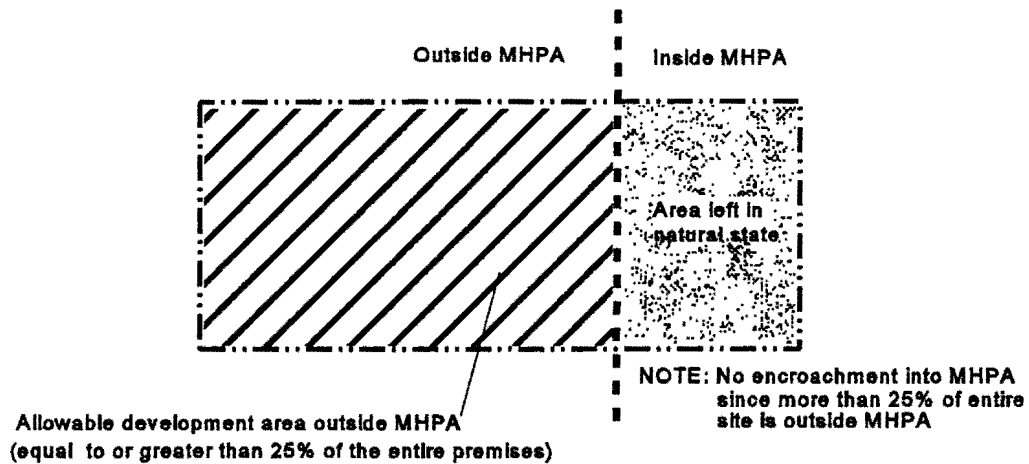
- (b) A *premises* within the OR-1-2 zone, within or partially within the *MHPA* is subject to the following regulations:
- (1) If the *premises* is located entirely within the boundary of the *MHPA*, a maximum of 25 percent of the site may be developed. See Diagram 131-02C.

Diagram 131-02C
Allowable Development Area Entirely Within MHPA



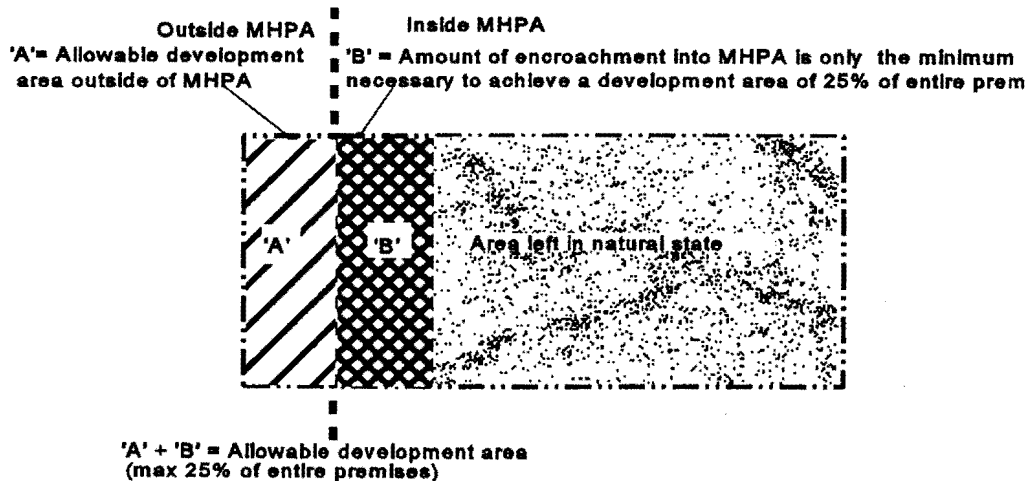
- (2) If the *premises* is located partially within the boundary of the *MHPA*, any *development* proposed must occur on the portion of the *premises* not within the *MHPA*. See Diagram 131-02D. If the portion of the *premises* not within the *MHPA* is greater than 25 percent of the *premises* area, the allowable *development* area may include all of the area outside of the *MHPA*, except as limited by Sections 143.0141(b) and (g) and 143.0142(a)(2).

Diagram 131-02D
Allowable Development Area without Encroachment into MHPA



- (3) If the portion of the *premises* not within the *MHPA* boundary is less than 25 percent of the *premises* area, encroachment into the *MHPA* may be permitted to achieve a maximum development area of 25 percent of the *premises*. See Diagram 131-02E.

Diagram 131-02E
Allowable Development Area with Encroachment Into MHPA



- (4) Up to 5 percent of additional *development* area is permitted to accommodate essential public facilities only, as identified in the applicable land use plan as long as the total *development* area does not exceed 30 percent of the *premises*. This additional development area shall require mitigation.

- (5) The allowable development area shall be 1 acre for a *premises* with a total area of less than 4 acres provided the width of the *MHPA* is at least 1,000 feet where the *premises* is located. Mitigation will be required for any impacts from *development* in excess of 25 percent of the *premises* area.
- (6) The portions of the *premises* within the *MHPA* that are not included in the allowable development area shall be maintained in their natural state and may be used only for passive uses consistent with the *Multiple Species Conservation Program Plan*.
- (7) *Development* within the OR-1-2 zone is subject to Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations) and the Biology Guidelines in the Land Development Manual.
- (8) Any *development* within the *MHPA* shall occur in the least sensitive areas first, in accordance with the Biology Guidelines in the Land Development Manual.
- (9) Any exception to the allowable development area regulations in this section is subject to Section 143.0150.
- (10) Within the Coastal Overlay Zone, only uses identified in Section 143.0130 (d) and (e) shall be permitted within *wetlands* subject to the provisions of Section 143.0141 (a) and (b).
- (11) Within the Coastal Overlay Zone, *coastal development* on *premises* with *steep hillsides* containing *sensitive biological resources*, or mapped as Viewshed or Geologic hazard on Map C-720, is subject to the encroachment limitations set forth in Section 143.0142(a).

permanent habitat loss and the land will be revegetated and restored in accordance with the Biology Guidelines in the Land Development Manual.

§ 143.0141 Development Regulations for Sensitive Biological Resources

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

- (a) State and federal law precludes adverse impacts to *wetlands* or listed non-covered species habitat. The *applicant* shall confer with the U.S. Army Corps of Engineers, U.S. Fish & Wildlife Service and/or California Department of Fish and Game before any public hearing for the *development* proposal. The applicant shall solicit input from the Resource Agencies on impact avoidance, minimization, mitigation and buffer requirements, including the need for upland transitional habitat. The applicant shall, to the maximum extent feasible, incorporate the Resource Agencies' recommendations prior to the first public hearing. *Grading* or *construction permits* shall not be issued for any project that impacts *wetlands* or Listed non-covered species habitat until all necessary federal and state permits have been obtained.
- (b) Outside and inside the *MHPA*, impacts to *wetlands*, including vernal pools in naturally occurring complexes, shall be avoided. A *wetland buffer* shall be maintained around all *wetlands* as appropriate to protect the functions and values of the *wetland*. In the Coastal Overlay Zone the applicant shall provide a minimum 100-foot buffer, unless a lesser or greater buffer is warranted as determined through the process described in 143.0141(a). Mitigation for impacts associated with a deviation shall achieve the goal of no-net-loss and retain in-kind functions and values.
- (c) Inside the *MHPA*, *development* shall avoid impacts to narrow endemic species. Outside the *MHPA*, measures for protection of narrow endemic species shall be required such as management enhancement, restoration and/or transplantation. A list of narrow endemic species is included in the Biology Guidelines in the Land Development Manual.
- (d) Inside the *MHPA*, *development* is permitted only if necessary to achieve the allowable development area in accordance with the regulations set forth in the OR-1-2 zone, pursuant to Section 131.0250(b), unless exempted from the development area regulations pursuant to Section 143.0111.
- (e) Inside and adjacent to the *MHPA*, all *development* proposals shall be consistent with the City of San Diego *MSCP Subarea Plan*.
- (f) Inside the *MHPA*, any change of an agricultural use to a non-agricultural use is subject to the development area regulations of Section 143.0141(d). Existing agricultural operations that exceed the allowable development area may remain as agricultural use only and do not count as part of the allowable development area.
- (g) Outside the *MHPA*, *development* of lands that are designated as open space in the applicable *land use plan* and zoned OR-1-1 is permitted only if necessary to achieve the allowable development area, in accordance with Section 131.0250(a).
- (h) Outside the *MHPA*, *encroachment* into *sensitive biological resources* is not limited, except as set forth in Section 143.0141(b) and (g).

- (i) All *development* occurring in *sensitive biological resources* is subject to a site-specific impact analysis conducted by the City Manager, in accordance with the Biology Guidelines in the Land Development Manual. The impact analysis shall evaluate impacts to *sensitive biological resources* and CEQA sensitive species. The analysis shall determine the corresponding mitigation, where appropriate, and the requirements for protection and management. Mitigation may include any of the following, as appropriate to the nature and extent of the impact.
 - (1) Acquisition or *dedication* of another site that can serve to mitigate the project impacts, with limited right of entry for habitat management, as necessary, if the site is not dedicated. This site must have long-term viability and the biological values must be equal to or greater than the impacted site.
 - (2) Preservation or *dedication* of on-site *sensitive biological resources*, creation of new habitat, or enhancement of existing degraded habitat, with limited right of entry for habitat management, as necessary, if the site is not dedicated. The site must have long-term viability and the biological values must be equal to or greater than the impacted site.
 - (3) In circumstances where the area of impact is small, monetary payment of compensation into a fund in lieu of other forms of mitigation. The City shall use the fund to acquire, maintain and administer habitat areas pursuant to City Council Resolution No. R-275129, adopted February 12, 1990. Where appropriate, the City Manager is authorized to enter into agreements with public agencies or private non-profit conservancies or foundations to administer the funds and acquire or maintain habitat preservation areas.
- (j) *Grading* during wildlife breeding seasons shall be consistent with the requirements of the City of San Diego *MSCP Subarea Plan*.
- (k) *Sensitive biological resources* that are outside of the allowable development area on a *premises*, or are acquired as off-site mitigation as a condition of permit issuance, are to be left in a natural state and used only for those passive activities allowed as a condition of permit approval. If the land is not dedicated in fee to the City, identification of permissible passive activities and any other conditions of the permit shall be incorporated into a covenant of easement that shall be recorded against title to the property, in accordance with procedures set forth in Section 143.0152. The U.S. Fish and Wildlife Service and the California Department of Fish and Game are to be named as third party beneficiaries to any covenant of easement recorded pursuant to this section.

§ 143.0142 Development Regulations for Steep Hillsides

Development that proposes *encroachment* into *steep hillsides* or that does not qualify for an exemption pursuant to Section 143.0110(c) is subject to the following regulations and the Steep Hillside Guidelines in the Land Development Manual.

- (a) Allowable Development Area
 - (1) Inside of the *MHPA*, the allowable development area is determined in accordance with the regulations set forth in the OR-1-2 zone, pursuant to Section 131.0250(b). However, within the Coastal Overlay Zone, *coastal development* is

FAX Cover Sheet

Dept. Fish and Game
Marine Region
P.O. Box 12912
La Jolla, CA. 92039
Warden Eric Kord
858-549-3472 office/fax

Date: June 17, 2002

RECEIVED

Number of pages (including cover): 9

JUN 17 2002

SENT TO: Name: Ellen Lirely, Tierra Alta Project

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Company: California Coastal Commission

Phone Number: _____

FAX Number: 619-767-2384

SENT BY: Name: ERIC KORD, Concerned Citizen


Phone Number: 858-549-3472 OFFICE/ FAX

DESCRIPTION:

INFORMATION/ LETTERS REGARDING THE TIERRA ALTA PROJECT

PLEASE CALL FOR ANY QUESTIONS OR COMMENTS.

- **** These letters are directed mostly to the appealed coastal development permit for a specific proposal at the subject site. However, they contain significant information addressing the on-site vernal pool area. Since protection of the vernal pool(s) is a major issue with the rezone as well as subsequent development, they are included with this report. This information was FAXed to the San Diego office, and the pictures are not legible. Although the text of the letters references them, they are not included as part of this exhibit.

APPLICATION NO.
SDLCPA #4-2001
Letters from Interested Party
Pages 1 - 6
 California Coastal Commission

August 2, 2001

San Diego Planning Commission
City Council Chambers, 12th floor,
City Administration Building
202 C Street,
San Diego, CA.

RECEIVED

JUN 17 2002

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Subject: Tierra Alta LDR No. 98-0792

Community Plan Area: Mira Mesa

Dear Planning Commission members,

My name is Eric Kord and I am a concerned citizen and home owner at 11286 Caminito Aclara, San Diego. I am involved with the Mira Mesa Community Planning Group, and at the July 16th meeting, I joined the subcommittee assigned to the Tierra Alta project. I received a copy of the Mitigated Negative Declaration for the above project from group member Tim Schenck. My background includes four years of field experience as a part-time biologist for the California Department of Fish and Game, and for the last 4 years, I have been employed as a law enforcement officer with California Fish and Game.

I have reviewed the Mitigated Negative Declaration report for the Tierra Alta project and I have the following concerns:

First, I have found the biological survey report for the Tierra Alta project incomplete. In March of 2001, I inspected the on site vernal pool habitat. I found two distinct and separate pools, not one. The second pool is smaller in area but slightly deeper. More importantly, this second pool contained several fairy shrimp. I was not able to determine which species of fairy shrimp were in the pool, but I believe without a doubt they were fairy shrimp. The biological survey mentioned no fairy shrimp were detected during "the focused wet season". It should be determined whether or not these shrimp are the endangered "San Diego Fairy Shrimp". My findings were reported to US Fish and Wildlife official, Susan Lynn.

In addition, I reviewed a letter from the Sierra Club Conservation Committee to Mr. Hellman of the Land and Development Review Division. The letter expresses the Sierra Club's concerns and comments regarding the Tierra Alta project. I also reviewed the above Mitigated Negative Declaration with Mary Ann Pentis of the Vernal Pool Society, and with Elizabeth Lucas and Don Chadwick, two Environmental Specialists from the California Department of Fish and Game. After hearing their recommendations and reading the Sierra Club letter, I believe the proposed vernal pool protection is inadequate. To begin, the 20 foot buffer zone appears to be insufficient. In response to a Mitigated Negative Declaration for the "Olive Pierce Middle School Playing Field" in Ramona, CA, US Fish and Wildlife and State Fish and Game "strongly" recommended a 100 foot wide buffer zone for all on site vernal pools. For a larger buffer zone in the Tierra Alta project, the Sierra Club recommended elimination of lot 10. Removing this lot would provide a

contiguous open space with the Multi-Habitat Planning Area (MHPA). This would allow a direct connection between the adjacent Lopez Ridge Vernal Pool Area and the on site vernal pools. For example, sensitive species like the native Western Spadefoot Toad (*Spea hammondi*) and the state endangered San Diego Mesa Mint (*Pogogyne abramsii*) may have a better opportunity in reaching, colonizing, and exchanging with the on site vernal pool. As the project stands now, reptiles and amphibians would have to go through the backyard of lot 10 to reach the vernal pools. In addition to the Sierra Club, the Mary Ann Pentis of the Vernal Pool Society has also recommended a 100 foot buffer zone around the vernal pools.

As related to me by Robert Korch, the vernal pool site will be managed by the Home Owners Association. This means that the HOA "gardeners" will be in charge of the vernal pool site maintenance. Have these gardeners been educated in vernal pool habitats? Will the HOA hire biological consultants to inspect the site during critical wet seasons? **Will the home owners wish to pay for the additional funding this area needs as an isolated vernal pool?** It is my opinion that the developers should have to pay for the preservation of their own mitigated vernal pool lot- not the home owners. As recommended by Don Chadwick, a non-wasting endowment fund and enhancement plan needs to be in place for this site if it is to be isolated. Otherwise, the simple solution is to eliminate lot 10. The site would be joined with surrounding natural habitat and would need very little maintenance.

As proposed, the vernal pool area will be surrounded by a block wall and will be separated from the MHPA. In the opinion of Don Chadwick and Mary Ann Pentis, isolation of this pool will severely decrease it's long term viability. **ISOLATION AND DESTRUCTION IS NOT MITIGATION.** Unless the pool is managed through appropriate funding and thorough care, this isolated vernal pool site will most likely become an empty lot for native and non-native weeds. As a result, the empty lot would have a significant and adverse neighborhood aesthetics impact. In conclusion, the vernal pool site is just one lot away from the MHPA. The most logical and most reasonable solution would be to eliminate lot 10 and adjust the MHPA boundary to include these two areas. State Environmental Specialist, Don Chadwick, also related to me that the removal of lot 10 would enhance the pool's long term viability.

Thank you for the opportunity to comment on this project.

Sincerely,

Eric B. Kord, Concern Citizen

October 29, 2001

Council of the City of San Diego
Council Chambers, 12th floor,
City Administration Building, 202 C Street,
San Diego, California, 92101

Subject: Tierra Alta project, No. 98-0792

To: The San Diego City Council

My name is Eric Kord and I am a concerned citizen and home owner at 11286 Caminito Aclara, San Diego. My past experience includes a BS in biology from UC Santa Cruz and 4 years as part time field biologist. For the last four years, I have been employed as a full time Game Warden for the California Department of Fish and Game. For the October 30th City Council public hearing, I will not be representing the Department of Fish and Game. As stated above, I am a concerned citizen.

I have reviewed the Mitigated Negative Declaration report for the Tierra Alta project and I have the following concerns:

First, I have found the biological survey report for the Tierra Alta project incomplete. In March of 2001, I inspected the on site vernal pool habitat. I found two distinct and separate pools, not one. The second pool is smaller in area but slightly deeper. More importantly, this second pool contained several fairy shrimp. I was not able to determine which species of fairy shrimp were in the pool, but I believe without a doubt they were fairy shrimp. It is a possibility that these shrimp may be the endangered "San Diego Fairy Shrimp". Especially since they are known to be present in the nearby Lopez Ridge Vernal Pool Area (as related to me by Mary Anne Pentis of the Vernal Pool Society).

Second, the proposed buffer zones around the vernal pools are inadequate. According to my measurements, the proposed fence line is only two feet from the northern side of the vernal pool. The western buffer zone is approximately 20 feet. In researching my concerns, I spoke with many biologists about recommended buffer zones surrounding vernal pools. Don Chadwick, Environmental Specialist for the California Department of Fish and Game, recommends a 100 ft buffer zone around vernal pools. In addition, Nancy Gilbert, biologist for US Fish and Wildlife, and Mary Anne Pentis, president of the Vernal Pool Society, both recommend a 100 ft buffer zone around vernal pools. Larry Sward, senior biologist for Helix Environmental Consulting Firm, stated "anything less than 25 feet is absolutely ridiculous".

The ideal solution for increasing the buffer zone around the vernal pools would be to eliminate lot 10. This solution was originally proposed by Janet Anderson of the Sierra Club Conservation Committee. Removing this lot would not only create a larger buffer zone for the pool, but would

also provide a contiguous open space with the Multi-Habitat Planning Area (MHPA). This would allow a direct connection between the adjacent Lopez Ridge Vernal Pool Area and the on site vernal pools. As a result, sensitive species like the native Western Spadefoot Toad (*Spea hammondi*) and the state endangered San Diego Mesa Mint (*Pogogyne abramsii*) may have a better opportunity in reaching, colonizing, and exchanging with the on site vernal pool.

Other individuals have stated that the canyon between the Lopez Ridge Vernal Pool Area and the onsite vernal pools precludes terrestrial interaction between these two sites. This is simply not true. According to Environmental Specialist, Don Chadwik, only a "sheer wall" would keep out an amphibian or a reptile. In this case, the canyon is far from being a cliff or a sheer wall. Furthermore, the *Peterson Field Guide to Western Reptiles and Amphibians* describes the Western Spadefoot Toad as: "Primarily a species of the lowlands, frequenting washes, flood-plains of rivers, alluvial fans, playas, and alkali flats, but also ranges into the foothills and mountains.... Found in valley and foothill grasslands, open chaparral, and pine-oak woodlands." From this wide ranging description, it can be easily deduced that a small canyon has never been an obstacle for this toad's movement.

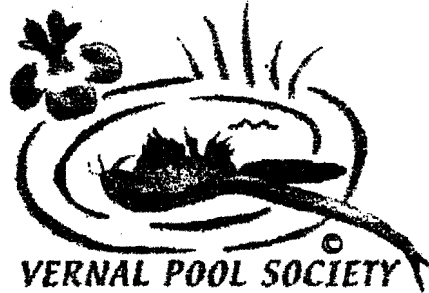
Also, some individuals have repeatedly called these vernal pools "road ruts". This is due to the track-like shape of the pools. What is most disappointing to me is that no one has mentioned the possibility that this site had vernal pools before the "road ruts" were formed. For all we know, the person who created the road ruts drove right through pre-existing vernal pools thinking they were rain puddles. Pre-existing vernal pools is possible explanation for fairy shrimp and vernal pool species occurring on the site now.

Nevertheless, increasing the buffer zone around the onsite vernal pools is paramount for their long term viability. It is important to consider that we are dealing with the last two percent of our original vernal pool habitat. If the elimination of lot 10 is unacceptable, then perhaps a rearrangement of the surrounding lots could be discussed.

Thank you for the opportunity to comment on this project.

Sincerely,

Eric B. Kord



October 18, 2001

Mr. Eric Kord, Warden,
California Fish and Game,
PO Box 12912
La Jolla, CA 92039

To: Eric or /To Whomever It May Concern:

On August 18, 2001, we, the Vernal Pool Society, contacted Eric in response to a number of complaints we received concerning a threatened vernal pool and the intentions of the developer, [Tierra Alta #98-0792, Mira Mesa, San Diego]

We visited the site (lot 1, 0.41 ac.) on August 18, 2001, and examined the subject vernal pool and surroundings area in the presence of Eric Kord of the California Fish & Game. We immediately found a vernal pool basin of approximately 10 feet by 20 feet (minimum) in its dry stage. *Psilocarphus sp.* was plentiful in the dried pool basin with *Navarretia sp.* sprinkled throughout; both are indicator species of the presence of vernal pools. *Hemizonia sp.* was also found throughout the area indicating that temporal pooling exists at least part of the year on this site.

Eric reported that he saw fairy shrimp swimming in this pool during the wet season. Such report fits directly within the continuous reporting of fairy shrimp on this mesa and the adjoining Los Peñasquitos preserve mesa. [Probably one huge vernal pool complex.] The fairy shrimp have been determined to be the endangered *Branchinecta sandiegonensis*, the undersigned have also examined such fairy shrimp in this complex of vernal pools. The "cysts" of these animals are most certainly present in the soil substrate but were not surveyed at this time, even though M. Pentis is certified to conduct such surveys. This vernal pool site should be protected by the federal "critical habitat" laws as well as the Endangered species act.

The survival of this pool requires a surrounding "buffer zone" of about 100 feet in width and some conservation of its watershed, the western level ground. The vernal pool is doomed to destruction without some consideration for its water source; since there are only approximately 2% of our vernal pools remaining, it behooves us to follow our laws and give it full protection. If help is needed in this area please feel free to contact us. Photographs are attached.


Mary Anne Pentis, president


Al Pentis, biologist

P.O. Box 2154, Ramona, CA 92065 760/789-4085 — FAX 760/789-4085
maryanne@pentis.com al@pentis.com