

CALIFORNIA COASTAL COMMISSION

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January 31, 2007

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TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: SHERILYN SARB, SOUTH COAST DEPUTY DIRECTOR
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OFFICE**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR
AMENDMENT NO. 1-07 for Commission Meeting of February 14-16, 2007**

EXECUTIVE SUMMARY

The subject LCP implementation plan amendment was submitted and filed as complete on January 11, 2007. The date by which the Commission must take action, absent an extension of the time limits by the Commission, is March 12, 2007.

These proposed ordinance revisions came before the Coastal Commission on January 11, 2007, as City of San Diego LCP Amendment No. 3-05B. After working closely with the City for a year on a staff-to-staff level, there were still several unresolved issues between City and Commission staff. However, pursuant to LCP processing deadlines in the Coastal Act and California Code of Regulations, the item had to be heard no later than January, 2007, although Commissioners believed additional consultation between staffs might have eliminated or significantly reduced the areas of disagreement. Staff was recommending denial as submitted and approval with suggested modifications that added specific regulations applicable only in the coastal zone. The City opposed this recommendation as a whole, and urged approval of the regulations as submitted. After public hearing and Commission deliberation, the City ultimately withdrew that amendment request and immediately resubmitted the subject LCP amendment application.

City and Commission staffs, including the Commission's Executive Director, met immediately following the hearing on this item on January 11th, at the hearing venue in Long Beach. Some previous issues were immediately resolved; others remained. Since the hearing, the Commission's San Diego staff again met with City representatives, and has also been communicating with them extensively, in an attempt to explain staff's concerns and reach agreement with the City on additional issues.

The proposed LCP amendment evolved as a result of extensive wildfires during drought years, and especially the San Diego County firestorms of late 2003. Specific brush management requirements were added to the LCP for the first time in 1999, when the

Commission certified the Land Development Code (LDC) as the City's updated Implementation Program. These new regulations were a vast improvement over the previous situation of individual property owners doing whatever seemed appropriate to them to insure the fire safety of their properties, which frequently resulted in wholesale clearance of sites. However, the devastation of the 2003 fire storms convinced the City's Fire Department that even stronger regulations than what was then in the LDC were needed to adequately safeguard the City. Thus, the City is proposing revisions to its brush management regulations, in an effort to provide greater fire safety for both existing and new development throughout the City.

In the certified Landscape Regulations, brush management is currently required for all developed properties adjacent to native and naturalized vegetation. The newly proposed regulations do not modify the types of land where brush management is required, but do clarify these requirements, and modify how and where fuel modification occurs. The primary proposed change to the regulations will be to expand the total required brush management area to 100 feet in width, including 35 feet of Zone One, the area closest to habitable structures, and 65 feet of Zone Two, the area between Zone One and undisturbed lands. Current regulations require a variety of brush management zone widths (ranging between 20-35 ft. for Zone One and 20-50 ft. for Zone Two), depending on the location of the property relative to Interstate 805 and El Camino Real, the perceived level of fire hazard, and the topography and vegetative composition of the subject site and adjacent lands. The proposed changes will result in a consistent width for Zones One and Two regardless of property location or the other cited factors.

A second significant proposed change in the brush management regulations is in the method of brush management, particularly in Zone Two. Currently, the ordinance requires complete removal of half of all vegetation within brush management Zone Two; the proposed amendment would change the fuel reduction methods for Zone Two to consist of reducing the height of half the existing vegetation over 24 inches in height to 6 inches in height, and thinning and pruning the remaining vegetation. Although the area affected will be greater due to the increased width of Zone Two, the practice of wholesale clearing of vegetation will be eliminated. All root systems are to remain undisturbed under the proposed methodology, such that the potential for soil erosion is reduced, especially where Zone Two brush management occurs on steep slopes. Other proposed modifications include, but are not limited to, fencing requirements for use of goats in brush management; discussion of appropriate vegetation and irrigation in brush management zones; timing restrictions on brush management activities to protect biological resources; and clarification of exemptions from some City permits for various brush management activities.

Specifically, the proposed amendments to the certified LCP will add to, or modify, provisions in the Landscape, Environmentally Sensitive Lands, and Electrically Charged and Sharp-Pointed Fence Regulations of the certified Land Development Code (LDC). The adopted City Council resolutions and ordinances also include changes to delete outdated and duplicative language in portions of the municipal code, and add language addressing the use of goats for brush management. Since these modifications are to

municipal code sections that are not part of the certified LCP, they are not specifically addressed herein.

In its review of the certified Land Development Code, the Commission recognized the MHPA as lands that have been designated and set aside for purposes of protecting the habitat value within the remaining large expanses of undisturbed area in the City's coastal overlay zone. Although some resources rising to the level of ESHA may exist outside the MHPA within the large undeveloped areas of the City, the vast majority of ESHA of significance is contained within the MHPA. Most urban canyons are not included in the MHPA preserve lands, and would not meet the Coastal Act definition of ESHA, due to their loss of function as either viable habitat or active wildlife corridors. Although these canyons may include formal open space and some sensitive biological resources as defined in the City's LDC, implementing Zone Two brush management within those isolated, urban canyons would not constitute a significant disruption of habitat values nor impact ESHA. This finding is consistent with the Commission's action approving the LDC in 1998. For this reason, most brush management activities associated with existing structures in the heavily urbanized portion of San Diego would not require a coastal development permit because they would not result in removal of major vegetation.

There is a recognized need for the City to effectively address fire safety for its residents, particularly those located in highly urbanized areas and along the urban/wildland interface. Implementation of an effective brush management program can avoid the need for more extensive vegetation removal in an emergency situation and the potential devastation of a wildfire. The existing regulations do not meet the current requirements of the City's Fire Chief, particularly with respect to brush management zone width. The proposed amendments would bring the brush management requirements into conformity with the Fire Chief's direction.

However, as proposed, the modifications to the Landscape, Electrically-Charged Fence and Environmentally Sensitive Lands Regulations would result in increased adverse impacts to sensitive species and public open space resources by, in many cases, expanding Zone Two brush management into areas consisting of native and naturalized vegetation and the City's Multiple Habitat Planning Area (MHPA) which is a designated open space habitat preserve. Particularly with respect to existing habitable structures and redevelopment of existing legal lots, implementation of the proposed regulations may require fuel modification off-site and/or within environmentally sensitive habitat area (ESHA) protected by the Coastal Act.

However, based on the information presented, the impacts to ESHA resulting from proposed brush management for existing structures adjacent to open space/native habitat areas are now being accepted. With respect to existing structures, a clear public safety hazard is present for existing structures adjacent to undeveloped areas of native and naturalized vegetation. Preventive brush management is one of several ways to help maintain and safeguard existing structures from the threats of wildfire and other types of disasters. In applying the proposed regulations, it is more likely the brush management will be done in a sensitive manner that minimizes adverse impacts on biological

resources, and that the reduced fuel loads will lessen the threat of fire even during drought years. Were the City forced to resort to nuisance abatement alone to accomplish this fire protection, far greater impacts to sensitive habitats could occur than through implementation of the proposed preventive/pre-emptive brush management methodology. Thus, staff no longer recommends requiring coastal development permits to perform brush management activities to protect existing structures.

Another previously unresolved issue was whether to allow goats to perform brush management activities in the coastal overlay zone. The City wants to allow this since it appears far less costly than hiring human crews to perform brush management. As such, it is more likely that homeowners will actually do the brush management and reduce the frequency of fire threats. The City has existing regulations to govern the use of goats for this purpose, but those regulations are not currently part of the certified LCP. Thus, the regulations could be changed in the future without review by the Coastal Commission. City staff suggested those regulations could be incorporated into the LCP through a suggested modification, which is now part of the Commission staff's current recommendation.

Concerns have been, and continue to be, expressed by the Commission's staff ecologist, representatives of wildlife agencies, and many EIR commenters that the regulations on the use of goats do not appear adequate, as currently written, to protect sensitive biological resources from degradation due to indiscriminate browsing and some commenters also raised concerns over the increased nutrient levels in runoff resulting from animal droppings and the increased spread of invasives. It should be noted that, with the exception of a couple test cases, the wildlife agencies (California Department of Fish and Game and U. S. Fish and Wildlife Service) have not yet accepted the use of goats for brush management and are concerned with the potential need for restoration after goats have browsed an area. Staff recommends that the Commission adopt suggested modifications that allow goat grazing subject to the City's regulations for a five-year period. The use of goats will be monitored and evaluated during that period. If at the end of five years it's determined that the use of goats is causing adverse effects to ESHA, then their use will no longer be allowed.

Staff does want to clarify photographs that were circulated to the Commission at the January hearing. The exhibit showed a "before" and "after" picture in a Scripps Ranch neighborhood where goats had been used. The "after" picture showed a completely denuded hillside. Staff thought the picture showed an area where Zone Two brush management had occurred. However, since that time, it has been explained that the picture actually showed a fire break, not brush management. Scripps Ranch was one of the communities severely damaged in the 2003 firestorms, and the residents had obtained special permission from the Fire Department to create this fire break that was over and above any actual brush management activities.

The major remaining disagreement between Commission and City staffs is with how the proposed regulations should be applied to new development. This topic has been raised in every meeting between the City and Commission staff for the past year. The City continues to maintain that adequate regulations exist in other City ordinances governing

new development to address all possible Commission staff concerns, including brush management. Commission staff maintains that the brush management regulations themselves should include a discussion of new development and a prohibition on impacts to ESHA as a result of new development, particularly in association with any new subdivision of land. The Commission staff's biggest concern with respect to the proposed regulations is that existing regulations currently allow impacts on ESHA for Zone Two brush management associated with new development, and the proposed regulations fail to address those impacts.

The City's certified implementing ordinances, and certified guidelines interpreting those ordinances, provide that Zone Two brush management is "impact neutral" (i.e., having neither a positive nor negative effect on biological resources). Commission staff acknowledges that these ordinances were certified by the Coastal Commission in 1999. However, since that time, experience has demonstrated that even minimal reductions in vegetative cover can have adverse impacts on habitat value and function. More recent Commission actions have identified that Zone Two brush management is a negative impact on ESHA, and represents a significant disruption of habitat values. Those recent actions have either prohibited said impacts or required mitigation in instances where out-and-out prohibition was not possible.

These growing concerns of the Coastal Commission are mirrored by the wildlife agencies, which had initially accepted the "impact neutral" language for Zone Two in the City of San Diego MSCP which was adopted in the mid-1990's. The original MSCP included a 200-foot buffer area along the urban/wildland interface to offset indirect effects from adjacent developed areas. One identified edge effect was Zone Two brush management, which, within the Coastal Overlay Zone, did not exceed twenty (20) feet in width. That width is now expanded to sixty-five (65) feet by the proposed regulations. Based on practical experience gained since the MSCP was adopted by the City and wildlife agencies, those agencies now recognize that there are indeed adverse impacts from even 20 feet of Zone Two brush management, let alone the proposed 65 feet. The agencies have thus required the City to acquire additional MHPA lands to offset the proposed increased indirect impacts. The City has addresses these concerns by passing an ordinance increasing its land acquisition goal for the MHPA by 715 acres, the calculated amount of additional area to be occupied and impacted by the expanded brush management zones required to protect existing development.

The wildlife agencies do not consider the additional acquisition goal to be mitigation for specific impacts, but as a means to offset the additional loss of habitat function in the MHPA due to the expanded widths of the brush management zones in association with existing development only. They do not believe the 715 acres (113.6 in the Coastal Overlay Zone) addressed the potential effects of new development, and, like the Coastal Commission, they find the concept that Zone Two brush management is "impact neutral" is no longer defensible. The wildlife agencies indicated they would require mitigation at MSCP ratios for impacts resulting from new development. However, Commission staff recommends that any potential ESHA impacts associated with brush management (either Zone One or Zone Two) be prohibited for new development, including new subdivisions.

Therefore, staff recommends denial of the LCP amendment as submitted, then approval with suggested modifications that address the remaining concerns. Namely, recommended suggested modifications identify that impacts to ESHA from brush management within protected open space and the designated MHPA are prohibited in association with new development, including subdivision of land; require alternative measures including building materials and design be utilized to minimize the extent of vegetation removal and habitat disruption in the required 100 foot brush management zones; and, establish regulations to accommodate the use of goats for brush management for a five-year trial period. Also, since ESHA is not currently a defined term in the City of San Diego certified LCP, a definition has been added for purposes of implementation of the brush management regulations.

To aid in understanding the proposed regulation language, acronyms used throughout the City's proposed modifications include MHPA, which is the Multiple Habitat Planning Area and MSCP which is the Multiple Species Conservation Program. These terms both refer to the City's resource management program developed in response to the State's Natural Communities Conservation Plan legislation.

The appropriate resolutions and motions begin on Page 8. The suggested modifications begin on Page 9. The findings for denial of the Implementation Plan Amendment as submitted begin on Page 19. The findings for approval of the plan, if modified, begin on Page 33.

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. The City has been reviewing this plan on a quarterly basis, and has made a number of adjustments to facilitate implementation; most of these required Commission review and certification through the LCP amendment process. Additional adjustments will continue to be made in the future. The City's IP includes portions of Chapters 11 through 14 (identified as the Land Development Code or LDC) of the municipal code and associated guidelines.

ADDITIONAL INFORMATION

Further information on the City of San Diego Amendment No. 1-07 (Brush Management Regulations) 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 No. 1-07 for the City of San Diego, 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 No. 1-07 submitted for the City of San Diego 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 various certified land use plans. 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 No. 1-07 for the City of San Diego 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 No. 1-07 for the City of San Diego 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 various certified land use plans. 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 **bolded double underlined** sections represent language that the Commission suggests be added, and the **~~bolded double struck-out~~** sections represent language which the Commission suggests be deleted from the language as originally submitted.

1. **§142.0402 When Landscape Regulations Apply** – Table 142-04A should be modified as follows:

Table 142-04A

Landscape Regulations Applicability

Type of Development Proposal			Applicable Regulations	Required Permit Type/ Decision Process
Column A	Column B	Column C		
1 - 8 [No change.]				
9.	New structures; additions to structures; or subdivisions that create lots where new structures could be located on properties adjacent to any contiguous, highly flammable area of native or naturalized vegetation greater than 10 acres or contiguous area of native or naturalized vegetation greater than 50 acres. All City owned property, dedicated in perpetuity for park or recreation purposes, within 100 feet of a structure.		142.0403, 142.0412, and 142.0413	Building Permit/ Process OneNo permit required by this division if work is performed in accordance with applicable regulations

Type of <i>Development Proposal</i>	Applicable Regulations	Required Permit Type/ Decision Process
10. Existing structures on properties that are adjacent to any area of highly flammable native or naturalized vegetation. Undeveloped <u>Publicly or privately owned premises that are</u> within 100 feet of a <u>structure that and</u> contain native or naturalized vegetation or environmentally sensitive lands	142.0403, 142.0412, and 142.0413	No permit required by this division if <u>work is performed in accordance with applicable regulations</u>
<u>11. New Structures, additions to structures, or subdivisions that create lots where new structures could be located on premises adjacent to native or naturalized vegetation</u>	<u>142.0403, 142.0412, and 142.0413</u>	<u>Building Permit/ Process One</u>
11, 12. New Trees or shrubs planted in the public right-of-way	62.0603, 129.0702, 142.0403 and 144.0409	Public Right-of-Way Permit or Street Tree Permit/ Process One

2. §142.0412 Brush Management – the introduction to this section, and subsections

(a), (b), and (c) should be modified as follows:

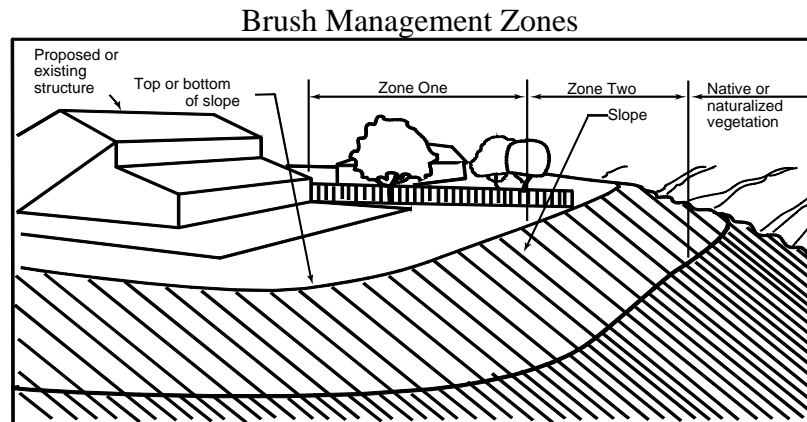
- (a) Brush management is required in all base zones on ~~the following types of~~ premises: for the types of *development* listed below when they are adjacent to any highly flammable area of native or naturalized vegetation that is greater than 10 acres as mapped by the City of San Diego, or adjacent to any area of native or naturalized vegetation that is greater than 50 acres, as shown in Table 142.04A. However, within the Coastal Overlay Zone, brush management is

required for all *coastal development* within the MHPA and/or adjacent to *steep hillsides* containing *sensitive biological resources*

~~(1)~~ Publicly or privately owned premises that are within 100 feet of a structure, and contain native or naturalized vegetation.

~~(2)(a)~~ **Brush management activity is permitted within** ~~Additions to structures~~
~~Except for wetlands, environmentally sensitive lands (except for~~
~~wetlands)~~ that are **located** within 100 feet of **an existing structure, in**
accordance with Section 143.0110(c)(7). Brush management in
wetlands may be requested with a development permit in accordance
with Section 143.0110 where unless the Fire Chief deems brush
management necessary ~~in wetlands~~ in accordance with Section
142.0412(i). Where brush management in *wetlands* is deemed necessary
by the Fire Chief, that brush management shall not qualify for an
exemption under the Environmentally Sensitive Lands Regulations,
Section 143.0110(c)(7).

- (b) Brush Management Zones. Where brush management is required, a comprehensive program shall be implemented that reduces fire hazards around *structures* by providing an effective fire break between all *structures* and contiguous areas of ~~flammable~~ native or naturalized vegetation. This fire break shall consist of two distinct brush management areas called “Zone One” and “Zone Two” as shown in Diagram 142-04D.

Diagram 142-04D

- (1) Brush management Zone One is the area adjacent to the *structure*, shall be least flammable, and ~~shall~~ **typically** consists of pavement and permanently irrigated ornamental planting. Brush management Zone One shall not be allowed on slopes with a gradient greater than 4:1 (4 horizontal feet to 1 vertical foot) unless the property ~~that~~ received *tentative map* approval before November 15, 1989. However, within the Coastal Overlay Zone *coastal development* shall be subject to the encroachment limitations set forth in Section 143.0142(a)(4) of the Environmentally Sensitive Lands Regulations.
- (2) Brush management Zone Two is the area between Zone One and any area of native or naturalized vegetation and ~~shall~~ **typically** consists of thinned, native ~~or naturalized~~, non-irrigated vegetation.
- (c) ~~Except as provided in Sections 142.0412(f) or 142.0412(i),~~ The width of Zone One and Zone Two shall not exceed 100 feet and shall meet or exceed ~~that the~~ **width requirements** shown in Table 142-04H **unless modified based on existing conditions pursuant to 142.0412(i) and the following:** Where *development* is adjacent to slopes or vegetation that meets the criteria shown in the table, the required Zone One and Zone Two width shall be increased by the dimension shown.

- (1) Both Zone One and Zone Two shall be provided on the subject property unless a recorded easement is granted by an adjacent property owner to the owner of the subject property to establish and maintain the required brush management zone(s) on the adjacent property in perpetuity.
- (2) **Where Zone Two is located within City-owned property, a Right of Entry agreement shall be executed in accordance with 63.0103 prior to conducting any brush management activity. Zone Two brush management is not permitted in City-owned open space for new development proposals. For properties in the Coastal Overlay Zone, additional requirements for new development are found in subsection (n).**

3. **§142.0412 Brush Management** – subsections (h) and (i) should be modified as follows:

(h) Zone Two Requirements

- (1) The required Zone Two width shall be provided between Zone One and the undisturbed, native or naturalized vegetation, and shall be measured from the edge of Zone One that is farthest from the habitable *structure*, to the edge of undisturbed vegetation.
- (2) No *structures* shall be constructed in Zone Two.
- (3) Within Zone Two, 50 percent of the plants over 24 inches in height shall be reduced to a height of 6 inches. Non-native plants shall be reduced in height before native plants are reduced in height.
- (4) Within Zone Two, all plants remaining after 50 percent are reduced in height, shall be pruned to reduce fuel loading in accordance with the Landscape Standards in the Land Development Manual. Non-native plants shall be pruned before native plants are pruned.

- (5) The following standards shall be used where Zone Two is in an area previously *graded* as part of legal *development* activity and is proposed to be planted with new plant material instead of *clearing* existing native or naturalized vegetation:
- (A) All new plant material for Zone Two shall be native, ~~or naturalized~~ non-irrigated, low-fuel, and fire-resistive. No non-native plant material may be planted in Zone Two either inside the MHPA or in the Coastal Overlay Zone, adjacent to areas containing *sensitive biological resources*.
- (B) New plants shall be low-growing with a maximum height at maturity of ~~2 feet~~ 24 inches. Single specimens of ~~fire-resistant~~ fire resistive native trees and tree form shrubs may exceed this limitation if they are located to reduce the chance of transmitting fire from native or naturalized vegetation to habitable *structures* and if the vertical distance between the lowest branches of the trees and the top of adjacent plants are three times the height of the adjacent plants to reduce the spread of fire through ladder fueling.
- (C) All new Zone Two plantings shall be irrigated temporarily until established to the satisfaction of the City Manager. Only low-flow, low-gallonage spray heads may be used in Zone Two. Overspray and runoff from the irrigation shall not drift or flow into adjacent areas of native or naturalized vegetation. Temporary irrigation systems shall be removed upon approved establishment of the plantings. Permanent irrigation is not allowed in Zone Two.
- (D) Where Zone Two is being revegetated as a requirement of Section 142.0411(a), revegetation shall comply with the spacing standards in the Land Development Manual. Fifty percent of the planting area shall be planted with material that does not grow taller than 24 inches. The remaining planting area may be planted with taller

material, but this material shall be maintained in accordance with the requirements for existing plant material in Zone Two.

- (6) Zone Two shall be maintained on a regular basis by pruning and thinning plants, **removing invasive species**, and controlling weeds, ~~and maintaining any temporary irrigation system.~~
- (7) Except as provided in Section 142.0412(i), where the required Zone One width shown in Table 142-04H cannot be provided on *premises* with existing *structures*, the required Zone Two width shall be increased by one foot for each foot of required Zone One width that cannot be provided.
- (i) **In consideration of the topography, existing and potential fuel load, and other characteristics of the site related to fire protection, the Fire Chief may modify the requirements of this section, and where applicable, with the approval of the Building Official, may require building standards for fire protection in addition to those required in accordance with Chapter 14 Article 5 Division 5 (Additional Building Standards for Buildings Located Adjacent to Hazardous Areas of Native or Naturalized Vegetation)** if the following conditions exist:
 - (1) In the written opinion of the Fire Chief, based upon a fire fuel load model report conducted by a certified fire behavior analyst, the requirements of Section 142.0412 fail to achieve the level of fire protection intended by the application of Zones One and Two; and
 - ~~(4) (2)~~ The modification to the requirements achieves an equivalent level of fire protection as provided by Section 142.0412, other regulations of the Land Development Code, and the minimum standards contained in the Land Development Manual; and
 - ~~(2) (3)~~ The modification to the requirements is not detrimental to the public health, safety, and welfare of persons residing or working in the area.

4. **§142.0412 Brush Management** – new subsection (m) should be added as follows:

(m) Where specifically authorized by the Fire Chief, goats may be used for brush management in accordance with the following:

(1) In order to prevent escapes, harassment from predators or humans, or over browsing, goats shall be managed and monitored 24-hours a day by a contractor who has at least two years experience in the raising, handling, and controlling of goats. The goat contractor shall carry a minimum of \$1 million of liability insurance.

(2) At least 10 business days prior to using goats for brush management, the property owner shall apply to the Fire Rescue Department for a permit to use goats for brush management. The application shall include:

(a) Obtain written permission from the owner of any property through which the goats must gain access to the area to be browsed by, and

(b) Provide written notice to the City of San Diego Fire Chief and all owners and residents of property located immediately adjacent to the area to be browsed. This notice shall identify Sections 44.0307 and 142.0412 (m) as the authority for temporary use of goats.

(c) Provide photographs of the existing condition of the site, and a plan describing the methods to be employed and measures to retain existing vegetation in compliance with subsection (h)

(3) The area to be browsed shall be measured, staked, and appropriately fenced with temporary electrically charged fencing to delineate the Zone Two brush management areas. Signs must be posted at 25-foot intervals along the fence warning of the possibility of mild electric shock.

(4) The timing of brush management activities shall be consistent with Section 142.0412(d).

(5) While goats are browsing:

(a) No more than 75 goats are permitted on a single acre of the premises.

(b) Goats shall be moved along periodically so that no more than 50 percent of the vegetation is thinned or reduced.

(c) The goats shall remain within a secure enclosure at all times.

(d) Goats shall be moved into a separate holding pen at night, which shall be located the maximum distance practicable from residences.

(e) Droppings in the holding pen, and, to the extent possible, within the brush clearance area, shall be removed and properly disposed of daily in accordance with Section 44.0307.

(f) The goats shall be used for brush management only and shall be immediately removed when the brush thinning has been accomplished.

(6) No later than 5 business days from the date of removal of the goats, the property owner shall notify the City of San Diego Fire Chief, in writing, of the removal of the goats.

(7) Negligent or irresponsible goat contractors shall be subject to debarment in accordance with Chapter 2, Article 2, Division 8.

(8) For five years after the first use of goats in the Coastal Overlay Zone, monitoring of each instance of goat use shall be conducted to document the effects of using goats for brush management. The City shall submit an annual monitoring report to the Coastal Commission documenting the following:

(a) dates and locations of each instance of goat use;

(b) number of acres managed and number of goats used per acre; and

(c) analysis of success in meeting the specific criteria of Section 142.0412 (h), subsections (3) and(4)

The monitoring report shall be accompanied by photographs documenting the before and after condition of the areas managed by goats. The monitoring report shall also document any instances of violation and/or required mediation during the previous year. If, at the end of five years, the monitoring reports indicate that use of goats has adversely impacted ESHA, the use of goats in the Coastal Overlay Zone shall be discontinued.

5. §142.0412 Brush Management – new subsection (n) should be added as follows:

(n) Within the Coastal Overlay Zone, the following ordinance provisions shall be in addition to those identified in Section 142.0412, subsections (a) through (m). Where any conflicts exist between the following provisions of subsection (n) and the provisions of subsections (a) through (m) or other provisions of the Land Development Code or Land Development Manual, the following provisions of subsection (n) shall be controlling.

(1) For purposes of these brush management regulations, environmentally sensitive habitat area (ESHA) within protected open space or designated MHPA shall be preserved. New development on larger properties qualifying for further subdivision shall not be permitted to encroach into ESHA, except for properties within the MHPA, where encroachment is allowed to attain the allowable 25% development area.. For purposes of these brush management regulations, ESHA shall include southern foredunes, torrey pines forest, coastal bluff scrub, maritime succulent scrub, maritime chaparral, native grasslands, oak woodlands, coastal sage scrub and coastal sage scrub/communities, and any vegetative communities that support threatened or endangered species. In addition, the term “protected open space” includes public lands, private lands deed restricted to protect open space, and private lands where easements have been granted to a public agency.

(2) Brush management requirements shall be reviewed as part of the development review process. Brush management shall be addressed in a site-specific brush management plan acceptable to the Fire Marshal. Impacts to ESHA within protected open space or designated MHPA shall not be permitted for Zone One or Zone Two brush management. In addition, all creative site and/or structural design features shall be incorporated into the approved subdivision design to avoid or minimize impacts to any existing undisturbed native vegetation from

allowable brush management requirements. Measures such as replacing cleared or thinned native vegetation with fire-resistive native vegetation that does not require fuel modification and is compatible with existing habitat, and maintenance of at least 50% of the existing ground cover shall be implemented, when possible, to avoid significant disruption of existing undisturbed native vegetation. New development shall be set back a minimum 100 foot distance from existing ESHA within protected open space or designated MHPA. For properties with the MHPA, all brush management, Zone One and Zone Two, shall be contained within the 25% developable area of the site.

6. §142.0412 Brush Management – new subsection (o) should be added as follows:

(o) Violations and Remedies

(1) The provisions of this division shall be enforced pursuant to Chapter 12, Article 1, Division 2, Enforcement Authorities for the Land Development Code and Chapter 12 Article 1, Division 3 Violations of the Land Development Code and General Remedies.

(2) In accordance with Section 121.0312, the City Manager may order reasonable restoration of the premises and any adjacent affected site to its lawful condition or may require reasonable mitigation at the sole cost of the responsible person.

**PART IV. FINDINGS FOR REJECTION OF THE CITY OF SAN DIEGO
IMPLEMENTATION PLAN AMENDMENT NO. 1-07, AS
SUBMITTED**

A. AMENDMENT DESCRIPTION

In general, the proposed LCP amendment is intended to increase the defensible area between existing/future structures and areas of native or naturalized vegetation to more effectively combat wildfires. Currently, the required brush management zones (Zones One and Two combined) range from 20 to 85 feet in width depending on the location and topography of the area; the proposed amendments would increase this total to 100 feet in all cases and make the requirement consistent citywide, as shown in the following table:

Criteria	Property	Location
	<u>Zone Widths</u> West of Interstate 805 and El Camino Real	East of Interstate 805 and El Camino Real
Minimum Zone One Width (See Section 142.0412[d])	20 35 ft.	30 ft.
Additional Zone One Width (See Section 142.0412[e]) Required when development is adjacent to slopes greater than 4:1 gradient that are 50 feet or greater in vertical height; or adjacent to vegetation greater than 24 inches in height; or adjacent to the MHPA	5 ft.	5 ft.
Zone One Width Within the Coastal Overlay Zone for subdivisions containing steep hillsides with sensitive biological resources	30 ft. Min	
Minimum Zone Two Width (See Section 142.0412[f])	20 <u>65</u> ft.	40 ft.
Additional Zone Two Width Required when Zone Two is on slopes greater than 4:1 gradient that are 50 feet or greater in vertical height; or the vegetation in Zone Two is greater than 48 inches in height. This additional width is not required for Zone Two located within the MHPA	10 ft.	10 ft.

The specific LCP amendments proposed address existing language within the Fences, Landscape, and Environmentally Sensitive Lands (ESL) Regulations. With the exception of Table 142-04A, the proposed amendments to the Landscape Regulations all occur within Section 142.0412 of the Land Development Code (LDC). They identify the new widths for the brush management zones (35 feet for Zone One and 65 feet for Zone Two), what types of vegetation are permitted within the zones, how the zones are to be managed, and who is responsible for brush management implementation. Within that section, the term “flammable” vegetation is proposed to be replaced with the term “native or naturalized” vegetation and the term “cut and cleared” is proposed to be replaced with the term “reduced in height.”

Currently, Zone One is required to be permanently irrigated and include primarily low-growing, low-fuel, fire-resistive plants and hardscape improvements. No habitable structures or other combustible construction are permitted within Zone One, and trees must be located away from structures to a minimum of ten feet measured from the drip line. These Zone One requirements are not modified in the proposed amendments. Current Zone Two fuel modification consists of cutting and clearing 50% of all vegetation over 18 inches in height to 6 inches in height. As proposed, fuel modification within Zone Two would consist of reducing 50% of all vegetation over 24 inches in height to 6 inches in height, and pruning the remaining 50% of the vegetation to reduce the fuel load and remove dead and dying plant material. Proposed changes further

require that non-native vegetation be reduced and pruned before native vegetation, to help offset impacts to habitat function.

Unfortunately, due to a lack of funding and staff, the current requirements have only been enforced when complaints are received, such that complete implementation of the current regulations has not occurred, and there is thus no way to gauge their effectiveness. Based on the experiences of recent fires, however, the Fire Marshal does not consider the current regulations to be adequate, even if they are fully enforced. Thus, as proposed, the combined Zones One and Two for all properties on the urban/wildland interface and adjacent to native and naturalized vegetation would expand to a total of 100 feet. Zone One requirements would be the same as before, except that the area of Zone One would be increased from 30 feet (in the coastal overlay zone) to 35 feet City-wide. Zone Two would be increased from as little as 20 feet to 65 feet, with this width applied uniformly throughout the City.

The City and Coastal Commission recognize that, in many instances, these new regulations will require fuel modification beyond the property boundaries of the habitable structure being protected. While this may occur on other private property, it is more likely that the adjacent lands will be public open space and parklands. These adjacent properties often contain environmentally sensitive lands, and, in many cases, are within the Multiple Habitat Planning Area (MHPA). The only areas where this is expected to be a significant concern is along the outer perimeter of existing development within the City limits and within the larger canyon and open space areas within the urbanized portions of the City. These are the areas that are designated as MHPA lands where the undisturbed natural vegetation would rise to the level of Environmentally Sensitive Habitat Area (ESHA) as defined in the Coastal Act. Other parts of the developed City do not contain ESHA, as areas with native vegetation are small, isolated, surrounded by existing development, and highly disturbed by human activities. With respect to protecting existing urban development, the City estimates that impacts of the proposed amendments would affect approximately 715 additional acres of MHPA lands, with approximately 113.6 acres of that acreage within the coastal overlay zone.

This total was calculated by multiplying the linear extent of the urban/wildland interface by the 65 feet of required Zone Two brush management, on the assumption that all of Zone Two would occur off-site of the properties being protected. Thus, the 113.6 coastal overlay zone acres includes the anticipated impacts associated with implementation of the brush management regulations for existing development, future development of currently-vacant lots that represent urban infill, and the potential impacts from redevelopment of existing, improved legal lots within the established urban areas. The size of the vast majority of existing legal lots would not allow the full 100 feet of brush management area to occur within the legal lot, but the City's calculation of potential impacts assumes that the entire Zone One area will be contained within the existing legal lot. Thus, there will be approximately 113.6 acres of additional impacts to MHPA lands within the coastal overlay zone when such brush management activity occurs. This figure does not include potential impacts from development of large tracts of vacant land along the City's perimeter. Although the City maintains that all such lands are already entitled through approved subdivision maps, they have offered no substantiation of this.

Separate from the proposed amendments to the Landscape and Environmentally Sensitive Lands Regulations, the City passed a resolution raising its goal of MHPA land acquisition by an additional 715 acres in an attempt to address the expected losses associated with protecting existing structures, as a response to concerns raised by the wildlife agencies (CA Department of Fish and Game and U.S. Fish and Wildlife Service). The additional acreage would be added to the MHPA over time, with specific vegetative communities replaced in proportion to that lost, and with coastal zone losses replaced in kind within the coastal zone. However, specific locations of the replacement habitat areas are not currently known.

Where existing structures and existing legal lots are concerned, because the total brush managed area would be widened, the new Landscape Regulations would increase off-site vegetation thinning and pruning in many cases, including in areas of environmentally sensitive lands and public open space, that may contain vegetative communities that would rise to the level of ESHA pursuant to the Coastal Act. To protect the California gnatcatcher, the proposed amendments include a prohibition on brush management activities within coastal sage scrub, maritime succulent scrub and coastal sage chaparral habitats between March 1st and August 15th (the species' breeding season), unless such activities can be found consistent with the Multiple Species Conservation Plan (MSCP) Subarea Plan. In addition, the proposed amendments would allow case-by-case modifications to the fire regulations by the Fire Chief if the required measures are found to be inadequate in specific circumstances. The only proposed amendment to the ESL Regulations, Section 143.0110, states that brush management activities in wetlands are not exempt from discretionary permit review.

Through the same Council actions, the City has also approved modifications to a number of other municipal code provisions, particularly addressing the use of goats for brush management. However, the only proposed amendment to the LCP that addresses the use of goats LCP is to Section 142.0360, addressing electrically charged fences. The amendment would allow use of such fences on a temporary basis in non-agricultural zones, in association with use of goats for brush management. A large section of brush management text is also being deleted from Chapter 4 of the Municipal Code, which is not part of the certified LCP, and is thus not addressed herein. This chapter includes duplicative language with that found in Chapter 14, as discussed above.

Moreover, alternatives identified in the EIR included a greater emphasis on use of special building design and materials to reduce the need for expanded brush management zones, better enforcement of the regulations already in place, and greater public education to minimize misinterpretation of the regulations. Special design standards are in place for properties adjacent to native vegetation, but these are considered as additional to the expanded brush management zones, not as a possible replacement for such. Neither of the other alternatives was considered viable by the City, although they could result in fewer or less severe impacts in some situations, and would thus be more consistent with the specific Land Use Plans identified below and the other LUPs that are part of the certified LCP.

B. SUMMARY FINDINGS FOR REJECTION

The proposed zoning modifications do not conform with, nor are they adequate to carry out, the brush management, resource protection, and visual resource policies of several certified land use plans. Within the City of San Diego Local Coastal Program, all the certified Land Use Plan segments would be affected by the proposed brush management regulations except Pacific Beach, Mission Beach, Ocean Beach, Centre City, and Barrio Logan. The communities that contain the most undeveloped property, or large private ownerships that could be subject to future subdivision, at the urban/wildland interface include the communities of the North City LCP segment, such as Mira Mesa, Carmel Valley, Pacific Highlands, and Del Mar Mesa, as well as the communities of La Jolla, Otay Mesa, and the Tia Juana River Valley. However, not all portions of these communities are within the coastal overlay zone, with the areas east of the coastal overlay zone having the most undeveloped land. In general, these LUPs protect open space and native vegetation more comprehensively than do the MSCP provisions, which are restricted to certain geographic areas. The City's proposed ordinance language does not address replacement of MHPA lands where habitat is adversely affected, nor does it require mitigation to be provided at the time that adverse impacts occur. However, the City has passed a separate resolution committing to replacement of MHPA lands adversely affected by brush management activities over time.

Therefore, the proposed brush management regulations will result in significant additional impacts on public open space and MHPA lands. In many cases, this will also be an impact on ESHA. The City does not intend to require discretionary permits for brush management activities if done consistent with the proposed regulations regardless of impacts, and proposes no mitigation for habitat loss caused by brush management activities associated with new development.

In addition, the City proposes to allow the use of goats to perform the actual brush management. However, said use raises concerns about compliance with the proposed regulations that require modifying non-native vegetation first before native vegetation is modified. Moreover, none of the certified LUPs address any use of goats within the urbanized areas, and the regulations adopted by the City to control the use of goats are not part of the LCP. Thus, as currently proposed, the brush management activities are inconsistent with, and inadequate to carry out, the resource protection policies of several, if not most, of the City's certified LUPs.

C. 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.

Landscape Regulations

a) **Purpose and Intent of the Ordinance.** The purpose of these regulations is to minimize the erosion of slopes and disturbed lands through revegetation; to conserve energy by the provision of shade trees over streets, sidewalks, parking areas, and other

paving; to conserve water through low-water-using planting and irrigation design; to reduce the risk of fire through site design and the management of flammable vegetation; and to improve the appearance of the built environment by increasing the quality and quantity of landscaping visible from public rights-of-way, private streets, and adjacent properties, with the emphasis on landscaping as viewed from public rights-of-way.

b) Major Provisions of the Ordinance. The ordinance generally requires minimum amounts of landscaping based on various land uses. Among other things, the ordinance includes:

- A point system for private properties based on plant types and sizes
- Irrigation regulations
- Regulations for parking lot plantings
- Regulations for Public right-of-way plantings
- Brush management regulations
- Water conservation regulations

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The proposed brush management regulations have the potential to affect sensitive biological resources in many communities of the City. By not requiring new development to be sited and designed to avoid brush management activities in ESHA, these regulations are inconsistent with many certified LUP provisions protecting said resources. This issue is evaluated in greater detail below.

Environmentally Sensitive Lands Regulations

a) Purpose and Intent of the Ordinance. The purpose of these regulations is to protect, preserve and, where damaged, restore the environmentally sensitive lands of San Diego and the viability of the species supported by those lands. These regulations are intended to assure that development, including, but not limited to, coastal development in the Coastal Overlay Zone, occurs in a manner that protects the overall quality of the resources and the natural and topographic character of the area, encourages a sensitive form of development, retains biodiversity and interconnected habitats, maximizes physical and visual public access to and along the shoreline, and reduces hazards due to flooding in specific areas while minimizing the need for construction of flood control facilities. These regulations are intended to protect the public health, safety, and welfare while employing regulations that are consistent with sound resource conservation principles and the rights of private property owners.

It is further intended for the Development Regulations for Environmentally Sensitive Lands and accompanying Biology, Steep Hillside, and Coastal Bluffs and Beaches Guidelines to serve as standards for the determination of impacts and mitigation under the California Environmental Quality Act and the California Coastal Act. These standards will also serve to implement the Multiple Species Conservation Program by placing priority on the preservation of biological resources within the Multiple Habitat Planning Area, as identified in the City of San Diego Subarea Plan. The habitat based level of protection which will result through implementation of the Multiple Habitat

Planning Area is intended to meet the mitigation obligations of the Covered Species addressed. In certain circumstances, this level of protection may satisfy mitigation obligations for other species not covered under the Multiple Species Conservation Program but determined to be sensitive pursuant to the CEQA review process. This determination will be addressed in the environmental documentation.

b) Major Provisions of the Ordinance. The ordinance generally requires the protection and preservation of environmentally sensitive lands, which include sensitive biological resources (both wetlands and upland vegetative communities), steep hillsides, coastal beaches, sensitive coastal bluffs and flood hazard areas. Among other things, the ordinance includes:

- Lists of allowed and prohibited uses in each of these types of lands
- Appropriate setbacks and siting of development
- Requirements for mitigation where impacts are allowed
- Identification of required permits for various developments
- References to brush management requirements
- References to the Land Development Manual, especially the Biology and Steep Slope Guidelines
- References to the MHPA preserve and the species covered by the MSCP.
- Provisions for deviations under specific circumstances

The Biology Guidelines address sensitive biological resources and classify vegetation communities into four tiers, with Tier III further subdivided into parts A and B. The tiers are ranked in terms of sensitivity, based on rarity and ecological importance, with Tier I being most sensitive and Tier IV being least sensitive. Tier I (rare uplands) includes Southern Foredunes, Torrey Pines Forest, Coastal Bluff Scrub, Maritime Succulent Scrub, Maritime Chaparral, Native Grassland, and Oak Woodlands. Tier II (uncommon uplands) includes Coastal Sage Scrub (CSS) and CSS/Chaparral. Tier III A (common uplands) includes Mixed Chaparral and Chemise Chaparral, and Tier III B (also common uplands) consists of Non-native Grasslands. Finally, Tier IV (other uplands) includes Disturbed, Agriculture and Eucalyptus areas.

With respect to the MSCP covered species, these are part of an Incidental Take Authorization resulting from an agreement between the City of San Diego, the California Department of Fish and Game, and the U. S. Fish and Wildlife Service. There are a total of 85 covered species, with 46 plant species and 39 animal species. The covered plant species include 2 tree species, 3 types of grasses, and the remainder a combination of small plants and scrubs. The covered animal species include 3 mammals, 3 amphibians, 2 reptiles, 1 insect and 28 species of birds. In addition, the Biology Guidelines identify 14 narrow endemic plant species. These are not covered species in the MSCP, but are sensitive biological resources to be avoided in the MHPA and protected elsewhere.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The only amendment proposed to this ordinance is identifying that brush management in wetlands is not exempt from site or neighborhood discretionary permit review. Thus, as

proposed, it is clear any brush management activities to be performed in wetlands would be subject to discretionary action at the local level. The City is not proposing any other changes to the ESL regulations or the Biology Guidelines at this time.

Fence Regulations

a) Purpose and Intent of the Ordinance. The purpose of these regulations is to maintain adequate visibility on private property and in *public rights-of-way*, to maintain the openness of front and street side yards, to protect the light and air to abutting properties, and to provide adequate *screening* by regulating the height, location, and design of *fences* and *retaining walls*.

b) Major Provisions of the Ordinance.

- Maximum heights for fences
- Exceptions to fence regulations
- Retaining wall regulations
- Building materials and maintenance regulations
- A prohibition on electric fences outside agricultural zones

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The only modification proposed to the certified fence regulations is to accommodate temporary electric fences for the control of goats being used for brush management in non-agricultural zones. A major problem with the current brush management requirements is that the City lacks the means (staff/funding) to enforce the regulations, such that brush management often only occurs when a specific complaint is lodged. Goats are viewed by the City as a less-expensive method of reducing vegetation than the use of manual labor, and the City thus hopes that allowing the use of goats might provide a financial incentive for property owners to proactively perform fuel modification. The City has drafted regulations governing the use of goats, specifying how many can be used per acre, and requiring 24-hour supervision, use of portable electric fencing to confine the goats to one area at a time, rotation of goats throughout a site to prevent overgrazing, and other regulations.

However, the above-referenced ordinance that actually regulates the use of goats for brush management is not proposed to be part of the LCP, and is thus subject to change without Coastal Commission review. Although that ordinance would not currently allow the use of goats in coastal sage scrub, maritime succulent scrub, and coastal sage-chaparral habitats during the gnatcatcher breeding season, goats could be used in these vegetative communities at other times of the year; moreover, the rules could be changed to allow grazing during the breeding season as well. Perhaps more significant are the practical concerns of how the regulations would be implemented and monitored. It could be difficult to manage goats in a manner that assures no overgrazing or indiscriminate clearance. Therefore, the ordinance is not adequate to carry out the sensitive resource protection provisions of the certified LUPs.

Land Use Plan Citations

The following are examples of various certified Land Use Plan (LUP) policies addressing new development with which the proposed regulations conflict, or which they do not fully carry out:

Carmel Valley Neighborhood 8 Precise Plan LCP Land Use Plan (a portion of the North City LUP)

Within the introduction to the LUP, under **KEY DEVELOPMENT FACTORS**, Page 6 of the LUP states:

Brush Management Zone 2 activities are not permitted within environmentally sensitive areas. Zone 2 areas (maximum 65 feet in width and refers to the area of native or naturalized plant material that is thinned to reduce fuel load) may extend beyond the developable area when subject to an approved site specific brush management plan acceptable to the fire department and when it avoids significant disruption of habitat values, is the minimum necessary to meet fuel load reduction requirements and complies with the brush management provisions of the City's Multiple Species Conservation Program (MSCP). However, it is desirable to preserve or restore the integrity of the relatively small pockets of natural habitat that are interspersed with disturbed or developed areas within the designated open space system for this neighborhood. Projects shall incorporate creative site and/or structural design features that would avoid Brush Management Zone 2 extending into undisturbed natural habitat areas. Measures such as replacing cleared or thinned native vegetation with fire-resistive native vegetation that does not require fuel modification and is compatible with the existing habitat, and maintenance of at least 50% of the existing ground cover of native vegetation shall be implemented, when possible, to avoid significant disruption.

On Page 48, within the Design Element, the ninth bullet under **B. DESIGN OBJECTIVES** states:

Preserve or enhance sensitive environmental features such as riparian areas, sandstone bluffs, and significant vegetation groupings.

On Page 49, within the Design Element, the third bullet under **C. DESIGN CONCEPT** states:

Hillsides Functions;
Provide natural open space
As visual relief
As biological habitat

Mira Mesa Community Plan LCP Land Use Plan (a portion of the North City LUP)

The **Sensitive Resources and Open Space System** component of the certified LUP includes many policies addressing protection of the entire Mira Mesa open space system,

and additional policies specifically addressing the major canyons, including those quoted below:

On Page 31, Policy 1.a., under **Open Space Preservation**, states:

Sensitive resource areas of community-wide and regional significance shall be preserved as open space.

On Page 31, Policy 4.c., under **Resource Management**, 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. *(The Resource Protection Ordinance [RPO] was part of the City's old municipal code; these resources are now protected under the Environmentally Sensitive Lands [ESL] regulations.)*

On Page 32, Policy 4.e., under **Resource Management**, states:

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.

On Page 33, Policy 4.i., under **Resource Management**, 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.

On Page 34, Proposal 1., **Open Space Preservation**, states in part:

Preserve the flood plain and adjacent slopes of the five major canyon systems that traverse the community – Los Penasquitos Canyon, Lopez Canyon, Carroll Canyon, Rattlesnake Canyon and Soledad Canyon, and the remaining vernal pool sites ... in a natural state as open space.

On Page 80, within the **Residential Land Use** component, the following site-specific development criteria applies to both the Crescent Heights and Sunset Pointe properties:

6. Brush management/fuel modification requirements shall be consistent with the following specific standards:

- a. Structures shall be located such that Zone One brush management (minimum width of 35 feet) shall be entirely within the area designated for development and outside open space and environmentally sensitive lands. The width of Zone One should be increased when possible to reduce the width of Zone Two and impacts to native vegetation.
- b. Zone Two brush management (selective clearing to maximum width of 65 feet) may be allowed in open space when subject to an approved site-specific brush management plan acceptable to the fire department that avoids significant disruption of habitat values to the maximum extent possible. However, Zone Two brush management within open space areas containing coastal sage scrub habitat, vernal pools and/or wetland buffers [coastal sage scrub and native grasslands for Sunset Pointe] shall not be permitted. Measures such as replacing cleared or thinned native vegetation with fire-resistant native vegetation that does not require fuel modification and is compatible with the existing habitat, and maintenance of at least 50% of the existing ground cover of native vegetation shall be implemented, when possible, to avoid significant disruption.

La Jolla Community Plan and LCP Land Use Plan

On Page 39, under **Natural Resources and Open Space System**, the last three **GOALS** state:

- Preserve all designated open space and habitat linkages within La Jolla such as the slopes of Mount Soledad and the sensitive ravines of Pottery Canyon.
- Protect the environmentally sensitive resources of La Jolla's open areas including its coastal bluffs, sensitive steep hillside slopes, canyons, native plant life and wildlife habitat linkages.
- Conserve the City of San Diego's Multi-Habitat Planning Area.

On Page 49, under **Natural Resources and Open Space System, POLICIES**, Item 1.a. states:

The City should ensure, to the fullest extent possible, that sensitive resources such as coastal sage scrub and mixed chaparral that are located in designated, as well as dedicated, open space areas and open space easements will not be removed or disturbed.

On Page 55, under **Natural Resources and Open Space System, PLAN RECOMMENDATIONS**, Item 1.d. states:

Implement the City of San Diego's MSCP Subarea Plan which ensures a system of viable habitat linkages between the existing open space areas to the canyons and hillsides throughout La Jolla's open space system.

On Page 64, under **Natural Resources and Open Space System, PLAN RECOMMENDATIONS**, Item 5.u. states:

For any development requiring a brush management plan, require the brush management plan used to control slope erosion to be performed on private property only, not on City-owned land, in accordance with the landscape regulations and standards.

These cited policies from the certified North City and La Jolla LCP Land Use Plans are intended as examples only. The City's other certified LCP land use plans contain similar language protecting natural resource areas from disturbance and preventing the disruption of habitat values. The City's proposed brush management revisions will extend the width of the required brush management zones. In many cases, especially when applied to developed properties, these changes will increase brush management encroachments into adjacent environmentally sensitive lands, sensitive biological resources, public open space and parklands. Even Zone Two brush management, which calls for significantly reducing the height of roughly half the vegetation within the zone, can adversely affect the habitat function of the remaining vegetation and the area as a whole. Thus, with respect to new development, performing Zone Two brush management in environmentally sensitive lands, sensitive biological resources, public open space and parklands is inconsistent with the resource protection policies of the City's certified LUPs.

Regarding the relationship of the certified LUP to the MSCP, several years ago, in response to significant fragmentation of habitat and accelerated loss of species, the state legislature adopted a law to address conservation in a regional manner, instead of property by property. The objectives of the southern California Natural Communities Conservation Program (NCCP) include identification and protection of habitat in sufficient amounts and distributions to enable long-term conservation of the coastal sage community and the California gnatcatcher, as well as many other sensitive habitat types and animal species. Generally, the purpose of the HCP and NCCP processes is to preserve natural habitat by identifying and implementing an interlinked natural communities preserve system. Through these processes, the wildlife agencies are pursuing a long-range approach to habitat management and preserve creation over the more traditional mitigation approach to habitat impacts. Although plans have been prepared for areas as small as a single lot, the Multiple Species Conservation Program (MSCP) and its subarea plans are intended to function at the citywide or regional level, instead of focusing on impacts to individual properties. For the City of San Diego, the actual preserve lands are referred to as the Multiple Habitat Preserve Area (MHPA).

Implementation of the MSCP or large-scale approach to habitat conservation within the City without any other restrictions would allow some development involving incidental

take of listed species and/or environmentally sensitive habitat in those areas where it has been deemed to be most appropriate, in order to preserve the largest and most valuable areas of contiguous habitat and their associated populations of listed species. Although the goals of the NCCP processes include maintenance of species viability and potential long-term recovery, impacts to habitat occupied by listed species are still allowed. This approach differs from the more restrictive Coastal Act policies regarding Environmentally Sensitive Habitat Areas (ESHA), which apply within the Coastal Zone. Those policies provide that, when a habitat must be considered environmentally sensitive (e.g., because it has become especially rare and/or provides crucial habitat for listed species), use of the habitat should not be allowed except for uses that are dependent on that resource. It should be noted that not all lands located within the MHPA would meet the Coastal Act definition of ESHA; conversely, some areas of ESHA beyond the existing urban/wildland interface may not yet be included within the MHPA.

Under MHPA regulations, any loss of MHPA lands must be mitigated by expanding the MHPA an equal or greater amount elsewhere. The mitigation area must also be of equal or better quality habitat than what is being lost. This sometimes involves creation or restoration of degraded areas, and sometimes is accomplished by the purchase of private lands within the MHPA and retiring them from development potential. The wildlife agencies (primarily U.S. Fish and Wildlife Service [Service] and California Department of Fish and Game [DFG]), in approving the City's MSCP and MHPA lands, accepted that certain edge effects would occur on the urban/wildlands interface, including the adverse effects of the existing brush management regulations. The agencies established a 200-foot buffer zone along the interface to include Zone Two brush management and other edge effects such as human and domestic pet intrusion, noise, lighting, etc. However, in recognition of adverse impacts resulting from the proposed expansion of brush management zones, the agencies have now requested the City provide additional MHPA lands to compensate for the anticipated additional resource impacts (i.e., overall loss of habitat value).

To calculate this compensation, the City has estimated the amount of new impacts associated with applying the proposed brush management regulations to existing development based on the extent of its urban/wildlands interface. The City has calculated the expected impacts by types of vegetation/habitat, and also calculated the amounts of these same impacts within the coastal zone separately. Of a total of 715 acres of additional resource impacts, 113.6 acres will be located within the coastal zone. The City adopted a resolution, separate from the proposed LCP amendments, to add an additional 715 acres to the MHPA's long-term acquisition goals. The resolution does not specify that 113.6 acres of new MHPA lands would be added to the coastal zone portion of the MHPA. However, City staff has indicated that is how the resolution would be interpreted, counting the specific amounts of the various types of coastal zone vegetation impacted, such that in-kind compensation will ultimately be provided. It is not currently known where these additional MHPA lands will be located or when they will be acquired.

Several issues are raised by the City's proposed LCP amendments. The City's LCP includes not only portions of the Land Development Code (LDC), but also a series of

guidelines that explain the LDC ordinance requirements and offer examples of appropriate application of the ordinance. The City has not proposed revisions to these guidelines at this time, and, thus, certification of the proposed amendments to the Landscaping and Environmentally Sensitive Lands Regulations will create conflicts with language in the Biology and Steep Hillside Guidelines. In the past, these documents had referred to Zone Two brush management, which was never wider than 20 feet in the coastal zone, as being “impact neutral” (i.e., having neither a positive nor negative effect on biological resources). As currently proposed, Zone Two is at least 65 feet and could be 100 feet or more in width, particularly when required to protect existing development, thus affecting a significantly greater area than previously. Moreover, since the Commission certified the guidelines in 1999, experience has demonstrated that even minimal reductions in vegetative cover can have adverse impacts on habitat value and function. The wildlife agencies, which had initially accepted the “impact neutral” language for Zone Two, also recognize that there are indeed adverse impacts from Zone Two, and are now requiring additional MHPA lands to compensate. However, the LDC guidelines are not before the Commission at this time, and City staff is reviewing potential amendments to them that would be brought to the Commission in the future.

In addition, in instances where legal grading has removed all native and naturalized plant material in the area designated for Zone Two brush management, the City’s proposed regulations allow brush management to be accomplished by replanting the area with appropriate types of native vegetation, stating that “All new plant material for Zone Two shall be native, low-fuel and fire-resistive.” However, the proposed regulation prohibits irrigation, and thus does not accommodate temporary irrigation for plant establishment. A ban on temporary irrigation could result in failure of the native plants to establish successfully.

Also, in working with City staff, a number of clarifications have been suggested by the City to improve the overall content of the brush management regulations. However, the Commission finds that some of these suggested improvements are still inadequate. For instance, in Section 142.0412 (c) (2), City staff suggested adding the language, “Zone Two brush management is not permitted in City-owned open space for new development proposals.” This language fails to protect other open space areas, such as deed restricted private open space or open space owned by some public agency other than the City of San Diego. However, “City-owned open space” was as far as City staff was prepared to go to alleviate Commission staff’s concerns that the language, as initially proposed, did not adequately protect open space resources.

Another issue with the LCP amendment as submitted is that it does not specifically establish a relationship between required brush management within environmentally sensitive lands, sensitive biological resources, public open space and parklands and the use of building materials and techniques that could reduce the need for said resource disturbance. The landscaping ordinance advises that the Fire Chief can modify requirements under certain conditions, but the actual building materials and siting alternatives are not part of the LCP. There is nothing in the LCP, either as it exists or with the proposed amendments, that ties in to the other ordinance, or explains how the two can work together to reduce impacts on resources. Thus, it is not clear in the LCP

that such provisions are available, and that they should be implemented in all new development before any modification of existing open space and parkland is proposed. This failure is inconsistent with the City's certified LUPs which contain multiple policies requiring protection of existing sensitive resources.

**PART V. FINDINGS FOR APPROVAL OF THE CITY OF SAN DIEGO
IMPLEMENTATION PLAN AMENDMENT NO. 1-07, IF MODIFIED**

The Executive Summary beginning on Page One of this report is incorporated into this set of findings by reference to provide additional clarification, although some issues addressed in that portion are further expanded upon here. For instance, the previous City of San Diego LCP Amendment No. 3-05B, that was heard at the January, 2007, Coastal Commission hearing, identified issues relating to brush management for existing structures that have since been resolved. The Commission finds that, for existing structures, brush management is one form of ongoing maintenance and preservation of said structures, and is required to address a public safety concern. Southern California's history of wildfires demonstrates that, if brush is allowed to grow unchecked, it becomes a hazard not only for an individual homeowner, but for that person's neighbors and surrounding community as well. Absent the proposed brush management regulations, the City's only option to address the threat of fire would be to require brush clearance on individual properties as abatement of a public nuisance. Such clearance typically occurs under emergency conditions (i.e., an immediate threat of fire), and is very likely to include complete removal of all plant material on a site. This method would obviously result in far greater ESHA impacts than preventive brush management conducted pursuant to the proposed regulations, which retain all rootstock and much of the existing canopy. Moreover, removing all plant material, as could happen under a nuisance abatement order, results in barren land that is more susceptible to the threat of landslides in subsequent rainy seasons.

Although the proposed LCP amendment does not in and of itself constitute the declaration of a public nuisance or an order to abate a nuisance, its application to the protection of existing development nonetheless falls within the scope of the City's authority to declare, prohibit, and abate nuisances. For example, the Government Code authorizes cities to adopt ordinances requiring the removal of "weeds" and other material that is dangerous to neighboring property or to the health or welfare of nearby residents. Gov. Code § 39502(b). "Weeds" are defined to include "sagebrush, chaparral and any other brush or weeds which attain such large growth as to become, when dry, a fire menace to adjacent improved property." Gov. Code § 39561.5. The adoption of an ordinance pursuant to Government Code section 39502 is an alternative to the formal process for declaring particular areas with dense vegetation growth to constitute a nuisance. *See* Gov. Code § 39587. The Coastal Act does not limit the power of cities to declare, prohibit, and abate nuisances. Pub. Res. Code § 30005.

In addition, with respect to the protection of existing development, the LCP amendment regulates brush management to minimize adverse environmental effects while accomplishing the City's fire safety imperatives. The City's action also provides

mitigation in the form of future acquisition of MHPA lands. For these reasons, brush management activities for the protection of existing development do not require a coastal development permit when regulated and mitigated in the manner proposed by the City.

Although this one issue has been resolved, the Coastal Commission still finds that the proposed LCP amendments can only be certified with the inclusion of several suggested modifications addressing the problems identified previously with the language as proposed. Some of these suggested modifications were identified by City staff as clarifying measures they would like to see added, including Suggested Modification #1. The first suggested modification includes several changes to Table 142-04A of the Landscape Regulations, that identifies which types of development require which types of review. The suggested modifications add new categories of development, such as publicly-owned lands and new subdivisions to the existing table, and identify the applicable regulations and permits relating to brush management for various types of new development.

The next suggested modification addresses the introduction and first three subsections of the brush management regulations portion of the landscape ordinance. Through subsections (b), these modifications serve to restructure and clarify the existing language of the regulations, which, among other things, address where brush management activities are required and the plant composition of the two brush management zones. Specifically, Zone One typically contains irrigated ornamental vegetation and hardscape improvements, whereas Zone Two is typically comprised of thinned native or naturalizing species. However, the suggested modifications to subsection (c) add new criteria based on the expanded brush management zones and stipulate that Zone Two brush management is not permitted in City-owned open space for new development. Except for the last sentence of subsection (c), these are also City suggestions.

Suggested Modification #3 addresses subsections (h) and (i) of the brush management regulations. Subsection (h) identifies the requirements of Zone Two, and the suggested modifications address what can be planted in Zone Two areas that were previously legally graded (natives only) and how Zone Two is to be maintained. Proposed maintenance activities include regular pruning and thinning of plants and controlling weeds; the suggested modification adds “removing invasive species” to the list of maintenance activities. The Commission concurs with the City that species commonly identified as weeds would be invasive species. However, there are invasive plants that are not typically identified as weeds, such as iceplant, Pampas grass and palm trees. Absent the suggested modification, these species would not necessarily require removal from Zone Two areas.

Subsection (i) provides that the Fire Chief may modify the requirements of the brush management regulations, on a case by case basis, depending on site-specific criteria such as topography and potential fuel load. The subsection also references other parts of the municipal code that require special building standards for sites in hazardous locations, and regulate how roofing, exterior walls, glazing, eaves, and vents are to be constructed to achieve maximum fire safety. These standards are automatically applied to any new development in areas of fire hazard. However, the Fire Chief can go beyond these

standards and require additional fire safety measures such as fire walls and additional fire-rated building elements if such are deemed necessary to adequately protect a habitable structure. The specific modifications suggested in this subsection were suggested by City staff. By including a cross-reference to Chapter 14 Article 5 Division 5 of the Municipal Code, this modification would add that division to the certified LCP.

Suggested modification #4 adds a new subsection (m), to the brush management regulations. This subsection establishes the standards that must be met in order to use goats to perform brush management activities. The standards address required permitting for the use of goats, required qualifications for goat handlers, the need for handlers to carry liability insurance, and a requirement to notify adjacent property owners before goats are used. The new subsection also details the browsing requirements, including provision of electric fences to control the goats while browsing, allowing a maximum of 75 goats per acre, moving the goats around to prevent over-browsing, penning the goats overnight and removing droppings from the pens. The suggested modification also identifies that negligent goat contractors are subject to debarment. Inclusion of these provisions was proffered by City staff.

There remain serious doubts over the ability of goat handlers to assure compliance with these regulations, particularly those requiring reducing plants to six inches in height, only thinning and pruning (i.e., not seriously damaging) the remaining vegetation, and reducing in height/thinning non-native vegetation before native vegetation. Moreover, the regulations only require that droppings in the overnight pens be removed. Therefore, the Commission finds a monitoring program should be established to determine the nature and extent of impacts with goat browsing on ESHA beyond what would be anticipated by use of human crews. The monitoring program requires submittal of an annual report from the City for five years, beginning with the first use of goats in the Coastal Overlay Zone, identifies the type of information that must be included in each report, and provides, should adverse impacts to ESHA be documented, that the use of goats in the Coastal Overlay Zone would be discontinued.

With this suggested modification, allowing goat grazing is consistent with the certified LUPs. It avoids the danger that brush management that should occur in order to protect human safety and existing structures won't occur because of the difficulty of other means of brush management. The time limitation and monitoring requirements allow evaluation of the effectiveness of the City's regulations while also ensuring that goat grazing will cease if those regulations are ineffective at avoiding adverse impacts to ESHA.

The next suggested modification, #5, adds subsection (n) to the brush management regulations, to address brush management for new development. For purposes of brush management, the subsection defines ESHA as including southern foredunes, torrey pines forest, coastal bluff scrub, maritime succulent scrub, maritime chaparral, native grasslands, oak woodlands, coastal sage scrub and coastal sage scrub/communities, and any vegetative communities that support threatened or endangered species. This definition includes all Tier I and Tier II habitat types listed in the City's MSCP. The new subsection also prohibits any impacts on ESHA within protected open space or designated MHPA lands for new development, especially new subdivisions. The term

“protected open space” refers to all publicly-owned open space, whether by the City of San Diego or other public entity, as well as deed-restricted private open space. Thus, in new subdivisions, the number of new lots created should be only as many as can accommodate the entire 100 feet of brush management outside ESHA. For properties within the MHPA, this regulation is to be interpreted to mean that all brush management, both Zone One and Zone Two, must be accommodated within the allowed 25% buildable area of the site. This suggested modification is necessary to protect the value of sensitive habitats, since the LCP, as currently certified, does not identify Zone Two brush management as an impact, and would thus allow it to encroach into ESHA.

Finally, Suggested Modification #6 add new subsection (o) to the brush management regulations. This subsection identifies that these regulations will be enforced pursuant to the certified Land Development Code. It also identifies penalties or required restoration for any violations of the regulations, including any associated with the use of goats to perform brush management activities. This section refers to other City ordinances not included in the certified LCP. By reference, these, and any other previously non-LCP ordinances referenced in these regulations, become part of the LCP, and their future modification will require action by the Coastal Commission.

In conclusion, the Commission finds that the City’s proposed amendments to the Landscape Ordinance, including its brush management regulations to expand the brush management zones, offer a potential for far greater impacts on ESHA within protected open space and designated MHPA lands with respect to new development than does the current LDC, which serves as the implementation plan for the certified LCP. The Commission recognizes the need to provide fire safety to the City’s residents, but also recognizes that new development in hazardous areas (i.e., adjacent to wildlands) greatly exacerbates this need. In order to protect environmentally sensitive lands, sensitive biological resources, public open space and parklands to the greatest extent possible, and to maintain the integrity of the MHPA where most of these resources are located, the Commission finds it can approve the proposed brush management revisions only with the suggested modifications addressed herein. Although some impacts are allowed for existing development, due to public safety concerns, the suggested modifications will eliminate the potential for adverse impacts associated with new development. In addition, the suggested modification requiring a monitoring program for goat use will assure that this use is discontinued if adverse impacts to ESHA are found in the first five years of the program in the Coastal Overlay Zone. As modified, the Commission therefore finds the proposed LCP amendment consistent with the various certified LUP components of the City’s LCP and adequate to carry out the LUP provisions.

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

Section 21080.9 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. Here, the City of San Diego prepared and certified an EIR because components of its action affect legal requirements other than the LCP and therefore fall outside the scope of Section 21080.9.

Nevertheless, the Commission is required, in a LCP submittal or, as in this case, a LCP amendment submittal, to find that the approval of the proposed LCP, or LCP, as amended, conforms to CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13542(a), 13540(f), and 13555(b).

In this particular case, the requested LCP amendment, as submitted by the City, is not consistent with CEQA, particularly with regard to land use and biological resources. Therefore, the Commission denies the LCP amendment and then approves it with suggested modifications addressing these issues. As modified, the Commission finds that there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the LCP amendment may have on the environment. Therefore, in terms of CEQA review, the Commission finds that approval of the LCP amendment will not result in any significant adverse environmental impacts.

(O-2005-46)

ORDINANCE NUMBER O-19413 (New Series)

ADOPTED ON SEPTEMBER 19, 2005

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 4, ARTICLE 4, DIVISION 3, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 44.0307, BY RENUMBERING SECTION 44.0307.1 TO SECTION 44.0307(c), ALL PERTAINING TO HEALTH AND SANITATION; AMENDING CHAPTER 5, ARTICLE 5, DIVISION 1 BY AMENDING SECTION 55.0101; AMENDING CHAPTER 5, ARTICLE 5, BY REPEALING DIVISION 92, RELATING TO APPENDICES TO THE FIRE CODE; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 3, BY AMENDING SECTION 142.0360, PERTAINING TO FENCE REGULATIONS; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 4, BY AMENDING SECTIONS 142.0402; 142.0403 AND 142.0412; AND AMENDING CHAPTER 14, ARTICLE 3, DIVISION 1, BY AMENDING SECTION 143.0310, ALL RELATING TO BRUSH MANAGEMENT REGULATIONS.

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

Section 1. That Chapter 4, Article 4, Division 3, of the San Diego

Municipal Code is amended by amending Section 44.0307 and renumbering

Section 44.0307.1 to Section 44.0307(c), to read as follows:

§44.0307 Cattle, Goats and Sheep

- (a) It is unlawful to bring or maintain, within a non-agricultural zone within the City, any cattle, bovine animals, goats, or sheep.
- (b) Section 44.0307(a) shall not apply to the following:
 - (1) Dairies or dairy farms licensed during the month of July 1953.
 - (2) Any goats brought in temporarily, to privately-owned non-agricultural zones for the purpose of performing brush

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management in accordance with the Land Development Code section 142.0412, Brush Management, subject to the following requirements:

- (A) The goats shall be managed and monitored 24-hours a day by a person who has at least two years experience in the raising, handling, and controlling of goats, and who carries a minimum of \$1 million of liability insurance, to prevent escapes, harassment from predators or humans, or over-browsing.
- (B) The owner of the property to be browsed by the goats shall notify, in writing, the City of San Diego Fire Marshal and all owners and residents with property located immediately adjacent to the area to be browsed by goats, at least 10 business days prior to beginning operation. This notice shall identify section 44.0307 as the authority for the temporary use of goats.
- (C) The owner of the property to be browsed by the goats shall obtain written permission from the owner of any property through which the goats must gain access to the area to be browsed by goats, at least 10 business days prior to beginning operation.

- (D) The area to be browsed by goats shall be measured, staked, and appropriately fenced with temporary electrically-charged fencing to delineate the brush management areas required under the Land Development Code section 142.0412, Brush Management. Signs must be posted at 25-foot intervals along the fence warning the possibility of mild electric shock.
- (E) When browsing, no more than 75 goats are permitted on any single acre of the *premises*.
- (F) When browsing, the goats shall be moved along periodically so that no more than 50 percent of the vegetation is thinned or reduced, in accordance with the Land Development Code section 142.0412, Brush Management.
- (G) The goats shall remain within a secure enclosure at all times. The goats may be moved to a separate holding pen at night, which shall be located the maximum distance practicable from residences. In addition to the requirements set forth in section 44.0307(c), droppings in the holding pen shall be removed and properly disposed of daily.

- (H) Brush Management activities are prohibited within coastal sage scrub, maritime succulent scrub, and coastal sage-chaparral habitats from March 1 through August 15, except where documented to the satisfaction of the City Manager that the clearing would be consistent with conditions of species coverage described in the City of San Diego's MSCP Subarea Plan.
- (I) The goats shall be used for brush management only and shall be immediately removed when the brush thinning has been accomplished. No later than 5 business days from the date of the removal of the goats, the owner of the property browsed by the goats shall notify, in writing, the City of San Diego Fire Marshal of the removal of the goats.
- (3) Any use of goats by the City of San Diego or its permittee for the purpose of performing brush management on City-owned property in non-agricultural zones in accordance with the Land Development Code section 142.0412, Brush Management, or for weed abatement, are subject to the requirements set forth in section 44.0307(b) (2) (A) – (I) and 44.0307(c).
- (c) Property owners shall remove and properly dispose of droppings from cattle, goats or sheep as needed to prevent accumulation, to avoid a health

or sanitation problem, or the breeding of flies, and to prevent discharge
into the *Storm Water Conveyance System*, as defined in section 43.0302.

Section 2. That Chapter 5, Article 5, Division 1 of the San Diego Municipal Code is
amended by amending Section 55.0101 to read as follows:

**§55.0101 Adoption of the California Fire Code (2001 Edition) Purpose and Intent, and
Administrative Provisions**

- (a) [No change.]
- (b) San Diego Fire Code. The document known as the San Diego Fire Code
consists of the following documents:
 - (1) and (2) [No change.]
 - (3) Sections 55.0101 through 55.9105 of Chapter V, Article 5, of the
San Diego Municipal Code.
 - (4) [No change.]
- (c) Relationship of San Diego Municipal Code section numbers to C.F.C.
(2001 Edition) section numbers. Sections within the C.F.C. (2001 Edition)
retain those same section numbers when referred to within the text of the
San Diego Municipal Code. Thus, Section 901 of the C.F.C. (2001
Edition) will be cited as "C.F.C. 901 (2001 Edition)" within the text of the
San Diego Municipal Code.

Where a section of the C.F.C. (2001 Edition) is adopted with changes, it is
promulgated within the Municipal Code by using a numbering system to
reflect both the Municipal Code numbering system and the C.F.C. (2001

Edition) numbering system. For example, section 901 of the C.F.C. (2001 Edition) is adopted with changes in San Diego Municipal Code section 55.0901. The first two digits to the left of the first decimal point are the chapter and article number of the San Diego Municipal Code. The two digits to the right of the first decimal point represent the Municipal Code's division number. The last four digits reflect the numbering system of the C.F.C. (2001 Edition). A zero (0) after the decimal point is a filler to accommodate the San Diego Municipal Code numbering system and is added when the section number in C.F.C. (2001 Edition) is less than four digits.

The Municipal Code numbering system reflects the numbering system of the C.F.C. (2001 Edition) excluding the chapter and article numbers to the left of the decimal point and when appropriate, the utilization of a filler zero (0). Consequently, with these modifications, the numbering in the San Diego Municipal Code sections 55.0101 through 55.9105 corresponds with the numbering system change in the C.F.C. (2001 Edition).

(d) through (h) [No change.]

Section 3. That Chapter 5, Article 5, of the San Diego Municipal Code is amended by repealing Division 92.

Section 4. That Chapter 14, Article 2, Division 3, of the San Diego Municipal Code is amended by amending Section 142.0360, to read as follows:

§142.0360 Electrically Charged and Sharp-Pointed Fence Regulations

(a) Electrically Charged *Fences*

- (1) Electrically charged *fences* are permitted in the IH and IS zones and for agricultural uses in agricultural zones, if the *fence* is at least 600 feet from a residential zone, and for temporary control of goats used for brush management in any non-agricultural zones in compliance with the Land Development Code section 142.0412, Brush Management, and section 44.0307.

(2) – (3) [No change.]

(b) [No change.]

Section 5. That Chapter 14, Article 2, Division 4 of the San Diego Municipal Code is amended by amending Sections 142.0402, 142.0403 and 142.0412 to read as follows:

§142.0402 When Landscape Regulations Apply

(a) [No change.]

(b) [No change to first paragraph.]

Table 142-04A

Landscape Regulations Applicability

Type of Development Proposal			Applicable Regulations	Required Permit Type/ Decision Process
Column A	Column B	Column C		
1 - 8 [No change.]				

Type of Development Proposal	Applicable Regulations	Required Permit Type/ Decision Process
9. All City owned property, dedicated in perpetuity for park or recreation purposes, within 100 feet of a structure.		No permit required by this division if work is performed in accordance with applicable regulations
10. Undeveloped public or private <i>premises</i> , within 100 feet of a <i>structure</i> , that contain native or naturalized vegetation or <i>environmentally sensitive lands</i>	142.0403, 142.0412, and 142.0413	No permit required by this division if work is performed in accordance with applicable regulations
11. [No change.]		

§142.0403 General Planting and Irrigation Requirements

[No change to first paragraph.]

(a) [No change.]

(b) Plant Material Requirements

(1) through (9) [No changes.]

(10) Trees required by this division shall be maintained so that all branches over pedestrian walkways are 6 feet above the walkway *grade* and so that all branches over vehicular travel ways are 16 feet above the *grade* of the travel way.

(11) through (14) [No changes.]

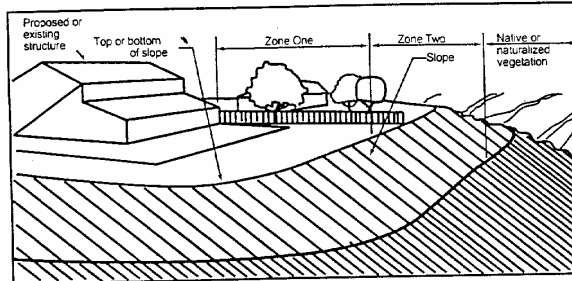
(c) - (d) [No change.]

§142.0412 Brush Management

- (a) Brush management is required in all base zones on the following types of premises:
 - (1) Publicly or privately owned *premises* that are within 100 feet of a *structure* and contain native or naturalized vegetation.
 - (2) Except for *wetlands*, *environmentally sensitive lands* that are within 100 feet of a *structure*, unless the Fire Chief deems brush management necessary in *wetlands* in accordance with Section 142.0412(i). Where brush management in *wetlands* is deemed necessary by the Fire Chief, that brush management shall not qualify for an exemption under the Environmentally Sensitive Lands Regulations, Section 143.0110(c)(7).
- (b) Brush Management Zones. Where brush management is required, a comprehensive program shall be implemented that reduces fire hazards around *structures* by providing an effective fire break between all *structures* and contiguous areas of native or naturalized vegetation. This fire break shall consist of two distinct brush management areas called "Zone One" and "Zone Two" as shown in Diagram 142-04D.

Diagram 142-04D

Brush Management Zones



- (1) [No change.]
- (2) Brush management Zone Two is the area between Zone One and any area of native or naturalized vegetation and shall consist of thinned, native or non-irrigated vegetation.
- (c) Except as provided in Sections 142.0412(f) or 142.0412(i), the width of Zone One and Zone Two shall not exceed 100 feet and shall meet that shown in Table 142-04H. Both Zone One and Zone Two shall be provided on the subject property unless a recorded easement is granted by an adjacent property owner to the owner of the subject property to establish and maintain the required brush management zone(s) on the adjacent property in perpetuity.

Table 142-04H

Brush Management Zone Width Requirements

Criteria	Zone Widths	
Zone One Width	35 ft.	
Zone Two Width	65 ft.	

- (d) Brush management activities are prohibited within coastal sage scrub, maritime succulent scrub, and coastal sage-chaparral habitats from March 1 through August 15, except where documented to the satisfaction of the City Manager that the thinning would be consistent with conditions of species coverage described in the City of San Diego's MSCP Subarea Plan.
- (e) Where Zone One width is required adjacent to the *MHPA* or within the Coastal Overlay Zone, any of the following modifications to development regulations of the Land Development Code or standards in the Land Development Manual are permitted to accommodate the increase in width:
 - (1) through (3) [No changes.]
- (f) The Zone Two width may be decreased by 1 ½ feet for each 1 foot of increase in Zone One width up to a maximum reduction of 30 feet of Zone Two width .
- (g) Zone One Requirements
 - (1) The required Zone One width shall be provided between native or naturalized vegetation and any *structure* and shall be measured from the exterior of the *structure* to the vegetation.
 - (2) Zone One shall contain no habitable *structures*, *structures* that are directly attached to habitable *structures*, or other combustible construction that provides a means for transmitting fire to the

habitable *structures*. *Structures* such as *fences*, walls, palapas, play structures, and nonhabitable gazebos that are located within brush management Zone One shall be of noncombustible construction.

(3) through (7) [No changes.]

(h) Zone Two Requirements

- (1) The required Zone Two width shall be provided between Zone One and the undisturbed, native or naturalized vegetation, and shall be measured from the edge of Zone One that is farthest from the habitable *structure*, to the edge of undisturbed vegetation.
- (2) [No change.]
- (3) Within Zone Two, 50 percent of the plants over 24 inches in height shall be reduced to a height of 6 inches. Non-native plants shall be reduced in height before native plants are reduced in height.
- (4) Within Zone Two, all plants remaining after 50 percent are reduced in height, shall be pruned to reduce fuel loading in accordance with the Landscape Standards in the Land Development Manual. Non-native plants shall be pruned before native plants are pruned.

- (5) The following standards shall be used where Zone Two is in an area previously *graded* as part of legal *development* activity and is proposed to be planted with new plant material instead of *clearing* existing native or naturalized vegetation:
- (A) All new plant material for Zone Two shall be native non-irrigated, low-fuel, and fire-resistive. No non-native plant material may be planted in Zone Two either inside the MHPA or in the Coastal Overlay Zone, adjacent to areas containing *sensitive biological resources*.
- (B) New plants shall be low-growing with a maximum height at maturity of 24 inches. Single specimens of native trees and tree form shrubs may exceed this limitation if they are located to reduce the chance of transmitting fire from native or naturalized vegetation to habitable *structures* and if the vertical distance between the lowest branches of the trees and the top of adjacent plants are three times the height of the adjacent plants to reduce the spread of fire through ladder fueling.
- (C) All new Zone Two plantings shall be irrigated temporarily until established to the satisfaction of the City Manager. Only low-flow, low-gallonage spray heads may be used in Zone Two. Overspray and runoff from the irrigation shall

not drift or flow into adjacent areas of native or naturalized vegetation. Temporary irrigation systems shall be removed upon approved establishment of the plantings. Permanent irrigation is not allowed in Zone Two.

(D) [No change.]

(6) Zone Two shall be maintained on a regular basis by pruning and thinning plants and controlling weeds.

(7) Except as provided in Section 142.0412(i), where the required Zone One width shown in Table 142-04H cannot be provided on *premises* with existing *structures*, the required Zone Two width shall be increased by one foot for each foot of required Zone One width that cannot be provided.

(i) [No change to the paragraph]

(1) In the written opinion of the Fire Chief, based upon a fire fuel load model report conducted by a certified fire behavior analyst, the requirements of Section 142.0412 fail to achieve the level of fire protection intended by the application of Zones One and Two; and

(2) The modification to the requirements achieves an equivalent level of fire protection as provided by Section 142.0412, other regulations of the Land Development Code, and the minimum standards contained in the Land Development Manual; and

- (3) The modification to the requirements is not detrimental to the public health, safety, and welfare of persons residing or working in the area.

(j) – (k) [No changes.]

- (l) Brush management for existing *structures* shall be performed by the owner of the property that contains the native and naturalized vegetation. This requirement is independent of whether the *structure* being protected by brush management is owned by the property owner subject to these requirements or is on neighboring property.

Section 6. That Chapter 14, Article 3, Division 1 of the San Diego Municipal Code is amended by amending Section 143.0110 to read as follows:

§143.0110 When Environmentally Sensitive Lands Regulations Apply

[No change to the paragraph]

(a) and (b) [No change]

(c) [No change to the paragraph]

(1) through (6) [No change]

- (7) Except for brush management in *wetlands* in accordance with Section 142.0412(a)(3), Zone Two brush management activity if the brush management complies with the landscape regulations in Chapter 14, Article 2, Division 4 (Landscape Regulations) and the Biology Guidelines.

Section 7. 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 8. This ordinance shall take effect and be in force on the thirtieth day from and after its passage, except that the provisions of this ordinance amending Articles 2 and 3 of Chapter 14, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

Section 9. That the City Manager be directed to forward to the California Coastal Commission the amendments required to be certified as Local Coastal Program amendments.

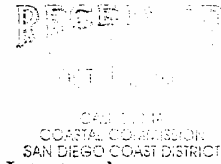
APPROVED: MICHAEL J. AGUIRRE, City Attorney

By _____
Hilda Ramirez Mendoza
Deputy City Attorney

[NOTE TO CITY CLERK: While awaiting California Coastal Commission certification of the amendments to sections 142.0360, 142.0402, 142.0403, 142.0412, and 143.0310, the corresponding regulations effective within the Coastal Overlay Zone have been renumbered to sections 132.0404, 132.0405, 132.0406, 132.0407, and 132.0408 respectively. Upon the unconditional certification of these provisions as a local coastal program amendment, sections 132.0404 through 132.0408, and the Editors Notes for sections 142.0360, 142.0402, 142.0403, 142.0412, and 143.0310 will be deleted.]

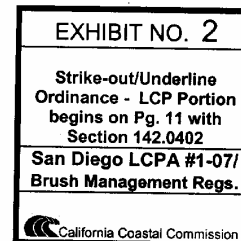
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08/23/05
Or.Dept: FireRescue
O-2005-46
MMS: 395

ATTACHMENT 1



§55.0101 Adoption of the California Fire Code (2001 Edition) Purpose and Intent, and Administrative Provisions

- (a) Portions of California Fire Code (2001 Edition) adopted. Except as otherwise provided in this Article, the California Fire Code (2001 Edition), including appendices, is hereby adopted. A copy of the California Fire Code (2001 Edition), is on file in the office of the City Clerk as Document No. OO-769841. The California Fire Code (2001 Edition), is referred to in this Article as "C.F.C. (2001 Edition)." The California Fire Code Standards (2001 Edition), is hereby adopted and is to be used in conjunction with the C.F.C. (2001 Edition). A copy of the California Fire Code Standards (2001 Edition), is on file in the office of the City Clerk as Document No. OO-18659, and may be cited in this Article as "C.F.C. Standards (2001 Edition)."
- (b) San Diego Fire Code. The document known as the San Diego Fire Code consists of the following documents:
 - (1) Those portions of the C.F.C. (2001 Edition), adopted by the City in section 55.0101 with changes as specified in this Article.
 - (2) C.F.C. Standards (2001 Edition).
 - (3) Sections 55.0101 through ~~55.9201~~ 55.9105 of Chapter V, Article 5, of the San Diego Municipal Code.
 - (4) Applicable sections of the California Code of Regulations.
- (c) Relationship of San Diego Municipal Code section numbers to C.F.C. (2001 Edition) section numbers. Sections within the C.F.C. (2001 Edition) retain those same section numbers when referred to within the text of the San Diego Municipal Code. Thus, Section 901 of the C.F.C. (2001 Edition) will be cited as "C.F.C. 901 (2001 Edition)" within the text of the San Diego Municipal Code.



Where a section of the C.F.C. (2001 Edition) is adopted with changes, it is promulgated within the Municipal Code by using a numbering system to reflect both the Municipal Code numbering system and the C.F.C. (2001 Edition) numbering system. For example, section 901 of the C.F.C. (2001 Edition) is adopted with changes in San Diego Municipal Code section 55.0901. The first two digits to the left of the first decimal point are the chapter and article number of the San Diego Municipal Code. The two digits to the right of the first decimal point represent the Municipal Code's division number. The last four digits reflect the numbering system of the C.F.C. (2001 Edition). A zero (0) after the decimal point is a filler to accommodate the San Diego Municipal Code numbering system and is added when the section number in C.F.C. (2001 Edition) is less than four digits.

The Municipal Code numbering system reflects the numbering system of the C.F.C. (2001 Edition) excluding the chapter and article numbers to the left of the decimal point and when appropriate, the utilization of a filler zero (0). Consequently, with these modifications, the numbering in the San Diego Municipal Code sections 55.0101 through ~~55.9201~~ 55.9105 corresponds with the numbering system change in the C.F.C. (2001 Edition).

- (d) Definitions. Whenever the following terms appear within the text of the C.F.C. (2001 Edition), they have the following definitions:

Chief means the Fire Chief.

Chief of the Fire Prevention Bureau means the Fire Marshal of The City of San Diego.

Corporation Counsel means the City Attorney.

Municipality or jurisdiction means The City of San Diego.

- (e) Prospective and Retrospective Application. Unless specifically stating that they may be applied prospectively only, provisions of the San Diego Fire Code may be retrospectively applied in accordance with C.F.C. section 102 (2001 Edition).
- (f) Effective Date. Unless otherwise stated in a specific San Diego Municipal Code section or C.F.C. (2001 Edition) section adopted by the City, the effective date of the San Diego Fire Code shall be August 19, 1999.
- (g) Reference to California Building Code. Any reference within the San Diego Fire Code to the "C.B.C." shall refer to those provisions of the California Building Code as adopted by Chapter IX of the San Diego Municipal Code.
- (h) Portions of the C.F.C. (2001 Edition) not adopted. The following sections of the C.F.C. (2001 Edition) are not adopted:

APPENDIX I-A

APPENDIX I-B

APPENDIX II-E

APPENDIX VI-C

103.1.4

901.4.3

902.2.2.1

903.2

2501.10.4

2501.18

7701.4

7802.4.3

7802.4.4.2

Table 81-A

Table 81-B

~~§55.9201 — Special Hazards Appendix II - A Suppression and Control of Hazardous Fire Areas~~

~~9201.1 Scope through 9201.16 Clearance of brush or vegetative growth from structures. Sections 9201.1 through 9201.16 of the C.F.C. (2001 Edition) have been adopted without change pursuant to section 55.0101(a).~~

~~9201.16.1 General through 9201.16.8 Maintenance of the Approved Brush Management Plan.~~

~~9201.16.1 General. Persons owning, leasing, controlling, operating or maintaining buildings or structures in, upon or adjoining hazardous fire areas designated in Table A by the Fire Chief in San Diego Municipal Code section 55.9201, subsection 9201.16.5, and persons owning, leasing or controlling land adjacent to such buildings or structures, shall at all times:~~

- ~~(a) — Maintain around and adjacent to the building or structure an effective firebreak clear of brush and vegetation for a distance therefrom equal to the applicable total Brush Management Zones Depth from Table B found in San Diego Municipal Code section 55.9201, subsection 9201.16.5, on each side thereof or the property line, whichever is closest. Brush management in all zones shall be performed and maintained in accordance with Appendix II A of the U.F.C. (1994 Edition) and the standards adopted by the City Council as set forth in section six (6) of the document entitled "City of San Diego Landscape Technical Manual," a copy of which is on file in the office of the City Clerk as Document No. RR-274506, including supplements and amendments.~~
- ~~(b) — Remove that portion of any tree which extends within ten (10) feet of the outlet of any chimney.~~

~~(e) Maintain any tree adjacent to or overhanging any building free of dead wood.~~

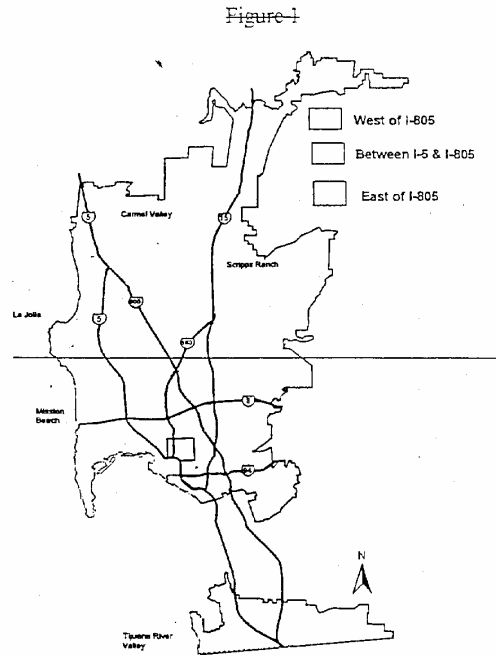
~~(d) Maintain the roof of any structure free of leaves, needles or other dead vegetative growth.~~

~~9201.16.2 Vacant land. The Fire Chief may require any person owning, leasing, controlling or maintaining vacant property which abuts land upon which a building or structure is located that is covered under San Diego Municipal Code section 55.9201, subsection 9201.16, to clear brush and vegetation on their property and to keep it clear at all times for up to the balance of the distances specified in Table B of San Diego Municipal Code section 55.9201, subsection 9201.16.5 from the building or structure on the abutting lot when necessary for public safety. Brush clearing and maintenance shall be performed and maintained in accordance with Appendix II A of the U.F.C. (1994 Edition) and the standards adopted by the City Council set forth in Section six (6) of the document entitled "City of San Diego Landscape Technical Manual," a copy of which is on file in the office of the City Clerk as Document No. RR-274506, including supplements and amendment.~~

~~9201.16.3 Safeguards during construction. Any person proposing to build a building or structure on property they own, lease, control, or maintain in, upon or immediately adjoining any hazardous fire area designated by the Fire Chief in Table A of San Diego Municipal Code section 55.9201, subsection 9201.16.5 shall at all times:~~

- (a) ~~Maintain around and adjacent to any building or structure an effective firebreak clear of brush and vegetation for a distance therefrom equal to the applicable total Brush Management Zones Depth, from Table B of San Diego Municipal Code section 55.9201, subsection 55.9201.16.5 on each side thereof. Brush Management in all zones shall be performed and maintained in accordance with Appendix II A of the U.F.C. (1994 Edition) and the standards adopted by the City Council set forth in Section 6 of the document entitled "City of San Diego Landscape Technical Manual," a copy of which is on file in the office of the City Clerk as Document No. RR-274506, including supplements and amendments.~~
- (b) ~~Remove that portion of any tree which extends within ten (10) feet of the outlet of any chimney.~~
- (c) ~~Maintain any tree adjacent to or overhanging any building free of dead wood.~~
- (d) ~~Maintain the roof of any structure free of leaves needles or other dead vegetative growth.~~

~~9201.16.4 Environmental Concerns. The requirements of San Diego Municipal Code section 55.9201, subsection 9201.16.1; section 55.9201, subsection 9201.16.2 and section 55.9201, subsection 9201.16.3 do not apply to single specimens of trees, ornamental shrubbery, or similar plants which are used as ground cover, provided they do not form a means for rapidly transmitting fire from any surrounding native growth to any building or structure, and that these requirements shall not be construed to require brush management on publicly owned open space and parkland.~~



9201.16.5 Use of Tables A and B.

Table A

FIRE HAZARD SEVERITY CLASSIFICATION			
LOCATION OF STRUCTURE	FIRE DEPARTMENT PRIORITY DESIGNATION		
	(A)	(B)	(C)
WEST OF I-5	MOD.	LOW	LOW
BETWEEN I-5 & 805	HIGH	MOD.	LOW

Table A establishes a fire hazard severity classification rating based upon the priority designation of an area and a structure's geographic location in the City.

Table B

BRUSH MANAGEMENT ZONES DEPT				
ZONE	DESCRIPTION	FIRE HAZARD SEVERITY CLASS		
		LOW	MOD.	HIGH
1	Ornamental landscape or Brush Clearance	30' min.	35' min.	40' min.
3	Low Volume plantings or selective thinning	20' avg.	30' avg.	40' avg.
3	Selective thinnings	0' avg.	20' avg.	30' avg.
	Total	50'	85'	110'

Table B establishes the required depth for each brush management zone based upon the fire hazard severity class identified in Table A.

For new structures adjacent to slopes requiring brush management, the Zone 1 depth within Table B may be reduced by ten (10) feet when all of the following architectural features are provided:

- (a) The roof shall be of fire retardant construction. Wood shake or shingles, whether fire retardant or untreated, are not permitted; and
- (b) Roof overhangs shall have an exterior surface equivalent to that required for one-hour fire resistive walls, and no eave vents shall be permitted for any portion of a structure located within the minimum set-back distance in Table B; and
- (c) All eave vents shall be covered with wire screen not to exceed 1/4 inch mesh. On all lots which have received approval on a tentative map subsequent to November 15, 1989, where structures will be located above slopes requiring brush management, which have a gradient of 4:1 (25 %) or steeper and are fifty (50) feet in vertical height or higher, the following shall apply:
 - (1) Structures shall be set back for a distance equal to the minimum required depth established in Table B for Zone 1. The setback shall be measured from those portions of a slope with gradients of 4:1 (25%) or steeper, and
 - (2) Notwithstanding any provision to the contrary, on any legal building lot for which a tentative map has been approved prior to November 15, 1989, the applicable Zone 1 setback from Table B shall not be required as a condition of a subsequent permit when

substantial conformance exists with previously approved
discretionary permits.

(d) For new structures adjacent to slopes requiring brush management, the depth of the applicable Zone 1 setback from Table B may be reduced in accordance with Section 55.9201.16.5. For new structures, the depth of the applicable Zone 3 shall be increased one foot for every one-foot reduction of the building setback below the corresponding Zone 1 depth established within Table B.

9201.16.6 Corrective Action. In the event that any of the conditions regulated by San Diego Municipal Code section 55.9201, subsection 9201.16.1; section 55.9201, subsection 9201.16.2, or 55.9201, subsection 9201.16.3 exist, the Fire Chief may give notice to the owner of the property upon which such condition exists to correct the prohibited condition. If the owner fails to correct such condition, the Fire Chief may cause the condition to be corrected and make the expense of the correction a lien upon the property upon which the condition exists, pursuant to the Municipal Code provisions governing the abatement of nuisance (San Diego Municipal Code sections 13.0301 through 13.0308).

9201.16.7 Publicly Owned Land. On all lots which have received approval on a tentative map subsequent to November 15, 1989, all new structures shall be sited such that no brush management will occur on publicly owned open space or parklands.

9201.16.8 Maintenance of the Approved Brush Management Plan. The approved brush management plan shall be maintained in accordance with guidelines set

forth by the Fire Chief. If a Development Services Department permit is required, the approved brush management plan shall be maintained in accordance with guidelines set forth by the Development Services Director in addition to those set forth by the Fire Chief. If publicly owned space or parklands are involved, the Park and Recreation Director may establish additional requirements for maintenance.

~~9201.17 Clearance of Brush or Vegetative Growth Roadways through 9201.24 Liability for Damage. Sections 9201.17 through 9201.24 of the C.F.C. (2001 Edition) have been adopted without change pursuant to section 55.0101(a).~~

§142.0402 When Landscape Regulations Apply

- (a) This division applies to all proposed planting and irrigation work.
- (b) Table 142-04A provides the applicable regulations and type of permit required by this division for the landscaping required in conjunction with the specific types of *development* proposals. Any project that proposes more than one of the types of *development* shown is subject to all of the regulations for each type of *development*.

Table 142-04A
Landscape Regulations Applicability

Type of Development Proposal			Applicable Regulations	Required Permit Type/ Decision Process
Column A	Column B	Column C		
1. New structures that equal or exceed the gross floor area shown (Column B), and are located in the zone or are proposing the use category shown (Column C)	Gross floor area (in square feet)	Zone or Proposed Use Category		
	1,000 sf	RM or Commercial Zones; or Multiple Dwelling Unit Residential use subcategory or Commercial Development	142.0403-142.0407, 142.0409, and 142.0413	Building Permit/ Process One
	5,000 sf	Industrial Zones; or Industrial Development		
2. Additions to structures or additional structures on developed properties that exceed the gross floor area shown or that increase the gross floor area by the percent shown (Column B), and are located in the zone or are proposing the category of use shown (Column C)	Gross floor area or Percent Increase in gross floor area (in square feet or percentage of lot area)	Zone or Proposed Use Category		
	1,000 sf or 20 percent increase	Multiple Dwelling Unit Residential Zones or use subcategory	142.0403-142.0407, 142.0409, 142.0410(a), and 142.0413	Building Permit/ Process One
	1,000 sf or 10 percent increase	Commercial Zones; or Commercial Development		
	5,000 sf or 20 percent increase	Industrial Zones; or Industrial Development		
3. New permanent parking and vehicular use area for four or more vehicles including access to the spaces, excluding parking for single dwelling unit uses on a single lot in single dwelling unit zones			142.0403, 142.0406-142.0409, and 142.0413	Building Permit/ Process One
4. New temporary parking and vehicular use area for four or more vehicles including access to the spaces, excluding parking for single dwelling unit uses on a single lot in single dwelling unit zones			142.0403, 142.0408, 142.0409, and 142.0413	Building Permit/ Process One

Type of Development Proposal	Applicable Regulations	Required Permit Type/ Decision Process
5. Additions or modifications to existing permanent or temporary parking and vehicular use area that increase the number of parking spaces by four or more	142.0403, 142.0408, 142.0409, 142.0410(b), and 142.0413	Building Permit/ Process One
6. Single dwelling unit residential use projects proposing new private or public rights-of-way	142.0403, 142.0409, and 142.0413	Building Permit/ Process One
7. Projects proposing slopes with gradients steeper than 4:1 (4 horizontal feet to 1 vertical foot) that are 5 feet or greater in height	142.0403, 142.0411, and 142.0413	Building Permit/ Process One
8. Projects creating disturbed areas of bare soils, or projects with existing disturbed areas	142.0403, 142.0411, and 142.0413	No permit required by this division
9. New structures, additions to structures, or subdivisions that create lots where new structures could be located on properties adjacent to any contiguous, highly flammable area of native or naturalized vegetation greater than 10 acres or contiguous area of native or naturalized vegetation greater than 50 acres. All City owned property dedicated in perpetuity for park or recreation purposes, within 100 feet of a structure.	142.0403, 142.0412, and 142.0413	Building Permit/ Process One No permit required by this division if work is performed in accordance with applicable regulations
10. Existing structures on properties that are adjacent to any area of highly flammable native or naturalized vegetation. Undeveloped public or private premises, within 100 feet of a structure that contain native or naturalized vegetation or environmentally sensitive lands	142.0403, 142.0412, and 142.0413	No permit required by this division if work is performed in accordance with applicable regulations
11. New trees or shrubs planted in the public right-of-way	142.0403 and 144.0409	Public Right-Of-Way Permit/ Process One

§142.0403 General Planting and Irrigation Requirements

All planting, irrigation, brush management, and landscape-related improvements required by this division must comply with the regulations in this section and with the Landscape Standards in the Land Development Manual.

(a) Plant Point Schedule

Table 142-04B assigns plant points based on plant type and size and applies where plant points are required by this division.

Table 142-04B
Plant Point Schedule

Proposed Plant Material		Plant Points Achieved per Plant
Plant Type	Plant Size	
Proposed Shrub	1-gallon	1.0
	5-gallon	2.0
	15-gallon or larger	10.0
Proposed Dwarf Palm	Per foot of brown trunk height	5.0
Proposed Tree	5-gallon	5.0
	15-gallon	10.0
	24-inch box	20.0
	30-inch box	30.0
	36-inch box	50.0
	42-inch box	70.0
	48-inch box and larger	100.0
Proposed Broad Headed Feather Palm Tree	Per foot of brown trunk height	5.0

Proposed Plant Material		Plant Points Achieved per Plant
Plant Type	Plant Size	
Proposed Feather Palm Tree	Per foot of brown trunk height up to 20 feet in height	3.0
	each feather palm tree over 20 feet in height	60.0
Proposed Fan Palm Tree	Per foot of brown trunk height up to 20 feet in height	1.5
	each fan palm tree over 20 feet in height	30.0

Existing Plant Material		Plant Points Achieved per Plant
Plant Type	Plant Size	
Existing Shrub	12-inch to 24-inch spread and height	4.0
	24-inch and larger spread and height	15.0
Existing Native Tree	2-inch caliper measured at 4 feet above <i>grade</i>	100.0
	each additional inch beyond 2 inches	50.0
Existing Non-Native Tree	2-inch caliper measured at 4 feet above <i>grade</i>	50.0
	each additional inch beyond 2 inches	25.0
Existing Broad Headed Feather Palm Tree	Per foot of brown trunk height	5.0
Existing Feather Palm Tree	Per foot of brown trunk height up to 20 feet in height	3.0
	each feather palm tree over 20 feet in height	60.0
Existing Fan Palm Tree	Per foot of brown trunk height up to 20 feet in height	1.5

Existing Plant Material		Plant Points Achieved per Plant
Plant Type	Plant Size	
	each fan palm tree over 20 feet in height	30.0

(b) Plant Material Requirements

- (1) Planting of invasive plant species, as described in the Landscape Standards of the Land Development Manual, is not permitted.
- (2) All existing, invasive plant species, including vegetative parts and root systems, shall be completely removed from the *premises* when the combination of species type, location, and surrounding environmental conditions provides a means for the species to invade other areas of native plant material that are on or off of the *premises*.
- (3) Plant material species shall be used that will continue to meet the requirements of this division after installation.
- (4) Tree locations shall be measured horizontally from the centerline of the tree trunk at *proposed grade*.
- (5) A minimum root zone of 40 square feet in area shall be provided for all trees. The minimum dimension for this area shall be 5 feet. This minimum dimension and root zone area may be reduced where the combination of soil conditions, root zone area, adjacent improvements, and selected tree species can be demonstrated to provide conditions for healthy tree growth that will not damage adjacent improvements.
- (6) Plant material shall be maintained in a healthy, disease-free, growing condition at all times.
- (7) All pruning shall comply with the standards of the National Arborist Association.
- (8) Any plant material required by this division that dies within 3 years of installation shall be replaced within 30 calendar days of plant death with the same size and species of plant material shown on the approved plan. Required shrubs that die 3 years or more after installation shall be replaced with 15-gallon size, and required trees that die 3 years or more after installation shall be replaced with 60-inch box size material. The City Manager may authorize adjustment of the size and quantity of replacement material where material replacement would occur in inaccessible areas or where the existing plant being replaced is larger than a 15 gallon shrub or 60- inch box tree.
- (9) Trees required by this division shall be self-supporting, woody plants with at least one well defined trunk and shall normally attain a mature height and spread of at least 15 feet.

- (10) Trees required by this division shall be maintained so that all branches over pedestrian walkways are 6 feet above the walkway *grade* and so that all branches over vehicular travel ways are ~~4~~16 feet above the *grade* of the travel way.
- (11) Shrubs required by this division shall be woody or perennial plants that are low branching or have multiple stems.
- (12) Tree root barriers shall be installed where trees are placed within 5 feet of *public improvements* including walks, curbs, or *street* pavement or where new public improvements are placed adjacent to existing trees. The City Manager may waive this requirement where the combination of soil conditions, root zone area, adjacent improvements, and selected tree species can be demonstrated to provide conditions for healthy tree growth that will not damage public improvements.
- (13) Native plants shall be locally indigenous.
- (14) Naturalized plant material shall be plantings that can survive without irrigation after initial plant establishment.
- (c) Irrigation Requirements
 - (1) All required plant material shall be irrigated with a permanent, below-grade irrigation system unless specified otherwise in this division.
 - (2) All required irrigation systems shall be automatic, electrically controlled, and designed to provide water to all required plantings to maintain them in a healthy, disease-resistant condition.
 - (3) Irrigation systems shall meet the following design requirements:
 - (A) No irrigation runoff or overspray shall cross *property lines* or paved areas;
 - (B) The velocity of water flowing in irrigation system piping or supply pipes shall not exceed 5 feet per second downstream of the water meter;
 - (C) Irrigation systems shall be designed to minimize system maintenance requirement after installation. Above-ground irrigation system equipment that is exposed to potential damage shall be designed to be damage-resistant; an
 - (D) An approved rain sensor shutoff device is required for all systems and a moisture-sensing device that regulates the irrigation system for all lawn areas is required.

(d) Planting Area Requirements

(3) Planting areas required by this division shall consist of the following:

- (A) Low-growing woody or herbaceous groundcover, turf, shrubs, or trees;
- (B) Unattached unit pavers, loose organic or inorganic materials, or *hardscape*; or
- (C) Built improvements including water features, overhead *structures* (such as gazebos, trellis *structures*, etc.), or fixed seating.

(4) Planting areas may be counted toward the planting area required by this division if they are greater than 30 square feet in size with no dimension less than 3 feet.

(5) All required planting areas shall be maintained free of weeds, debris, and litter.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

EDITORS NOTE: The Land Development Manual includes:

Coastal Bluffs and Beaches Guidelines
 Biology Guidelines
 Historical Resources Guidelines
 Submittal Requirements for Deviations within the Coastal Overlay Zone

See RR-292248 for the Coastal Bluffs and Beaches Guidelines of the Land Development Code; RR-292249 for the Biology Guidelines of the Land Development Code; RR-292250 for the Historical Resources Guidelines of the Land Development Code; RR-292251 for the Submittal Requirements for Deviations within the Coastal Overlay Zone of the Land Development Code

§142.0412 Brush Management

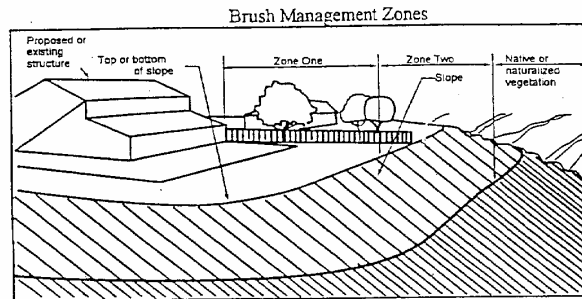
- (a) Brush management is required in all base zones on the following types of premises: for the types of development listed below when they are adjacent to any highly flammable area of native or naturalized vegetation that is greater than 10 acres as mapped by the City of San Diego, or adjacent to any area of native or naturalized vegetation that is greater than 50 acres, as shown in Table 142-04A. However, within the Coastal Overlay Zone, brush management is required for all coastal development

within the MHPA and/or adjacent to ~~steep hillsides~~ containing ~~sensitive biological resources~~

- (1) ~~New structures~~ Publicly or privately owned ~~premises~~ that are within 100 feet of a structure and contain native or naturalized vegetation.
- (2) ~~Additions to structures~~ Except for ~~wetlands, environmentally sensitive lands~~ that are within 100 feet of a ~~structure~~, unless the Fire Chief deems brush management necessary in ~~wetlands~~ in accordance with Section 142.0412(i). Where brush management in ~~wetlands~~ is deemed necessary by the Fire Chief, that brush management shall not qualify for an exemption under the Environmentally Sensitive Lands Regulations, Section 143.0110(c)(7).
- (3) ~~Subdivisions that create lots where new structures could be located.~~
- (4) ~~Existing structures~~

- (b) Brush Management Zones. Where brush management is required, a comprehensive program shall be implemented that reduces fire hazards around ~~structures~~ by providing an effective fire break between all ~~structures~~ and contiguous areas of ~~flammable~~ native or naturalized vegetation. This fire break shall consist of two distinct brush management areas called "Zone One" and "Zone Two" as shown in Diagram 142-04D.

Diagram 142-04D



- (1) Brush management Zone One is the area adjacent to the *structure*, shall be least flammable, and shall consist of pavement and permanently irrigated ornamental planting. Brush management Zone One shall not be allowed on slopes with a gradient greater than 4:1 (4 horizontal feet to 1 vertical foot) unless the property that received *tentative map* approval before November 15, 1989. However, within the Coastal Overlay Zone *coastal development* shall be subject to the encroachment limitations set forth in Section 143.0142(a)(4) of the Environmentally Sensitive Lands Regulations.
- (2) Brush management Zone Two is the area between Zone One and any area of native or naturalized vegetation and shall consist of thinned, native or naturalized non-irrigated vegetation.
- (c) Except as provided in Sections 142.0412(f) or 142.0412(i), the width of Zone One and Zone Two shall not exceed 100 feet and shall meet or exceed that shown in Table 142-04H. Where *development* is adjacent to slopes or vegetation that meets the criteria shown in the table, the required Zone One and Zone Two width shall be increased by the dimension shown. Both Zone One and Zone Two shall be provided on the subject property unless a recorded easement is granted by an adjacent property

owner to the owner of the subject property to establish and maintain the required brush management zone(s) on the adjacent property in perpetuity.

Table 142-04H

Brush Management Zone Width Requirements

Criteria	Property Location	
	Zone Widths West of Interstate 805 and El Camino Real	East of Interstate 805 and El Camino Real
Minimum Zone One Width (See Section 142.0412(d))	20 35 ft.	30 ft.
Additional Zone One Width (See Section 142.0412(e)) Required when development is adjacent to slopes greater than 4:1 gradient that are 50 feet or greater in vertical height, or adjacent to vegetation greater than 24 inches in height, or adjacent to the <i>MHPA</i>	5 ft.	5 ft.
Zone One Width Within the Coastal Overlay Zone for subdivisions containing steep hillsides with sensitive biological resources	30 ft. Min	
Minimum Zone Two Width (See Section 142.0412(f))	20 65 ft.	40 ft.
Additional Zone Two Width Required when Zone Two is on slopes greater than 4:1 gradient that are 50 feet or greater in vertical height, or the vegetation in Zone Two is greater than 48 inches in height. This additional width is not required for Zone Two located within the <i>MHPA</i>	10 ft.	10 ft.

- (d) The width of brush management Zone One shall be increased by 10 feet for *structures* that do not meet all of the following requirements:

- (1) — Roof material shall be fire retardant. Wood shake shingles, whether fire retardant treated or untreated, are not permitted.
- (2) — Walls, eaves, and overhangs shall be one-hour, fire resistive.
- (3) — Eave vents shall be covered with wire screen not to exceed 1/4-inch mesh.

Brush management activities are prohibited within coastal sage scrub, maritime succulent scrub, and coastal sage-chaparral habitats from March 1 through August 15, except where documented to the satisfaction of the

City Manager that the thinning would be consistent with conditions of species coverage described in the City of San Diego's MSCP Subarea Plan.

- (e) Where additional Zone One width is required adjacent to the *MHPA* or within the Coastal Overlay Zone, any of the following modifications to development regulations of the Land Development Code or standards in the Land Development Manual are permitted to accommodate the increase in width:
 - (1) The required front *yard setback* of the base zone may be reduced by 5 feet,
 - (2) A sidewalk may be eliminated from one side of the *public right-of-way* and the minimum required *public right-of-way* width may be reduced by 5 feet, or
 - (3) The overall minimum pavement and public right-of-way width may be reduced in accordance with the Street Design Standards of the Land Development Manual.
- (f) The ~~minimum~~ Zone Two width may be decreased by $\pm 1 \frac{1}{2}$ feet for each 1 foot of increase in Zone One width over up to a maximum reduction of 30 feet of the Zone Two minimum width shown in Table 142-04H.
- (g) Zone One Requirements
 - (1) The required Zone One width shall be provided between flammable native or naturalized vegetation and any *structure* and shall be measured from the exterior of the *structure* to the vegetation.
 - (2) Zone One shall contain no habitable *structures*, *structures* that are directly attached to habitable *structures*, or other combustible

construction that provides a means for transmitting fire to the habitable *structures*. *Structures* such as *fences*, walls, palapas, play structures, and nonhabitable gazebos that are located within brush management Zone One shall be of noncombustible construction.

- (3) Plants within Zone One shall be primarily low-growing and less than 4 feet in height with the exception of trees. Plants shall be low-fuel and fire-resistive.
- (4) Trees within Zone One shall be located away from *structures* to a minimum distance of 10 feet as measured from the *structures* to the drip line of the tree at maturity in accordance with the Landscape Standards of the Land Development Manual.
- (5) Permanent irrigation is required for all planting areas within Zone One except as follows:
 - (A) When planting areas contain only species that do not grow taller than 24 inches in height, or
 - (B) When planting areas contain only native or naturalized species that are not summer-dormant and have a maximum height at plant maturity of less than 24 inches.
- (6) Zone One irrigation overspray and runoff shall not be allowed into adjacent areas of native or naturalized vegetation.
- (7) Zone One shall be maintained on a regular basis by pruning and thinning plants, controlling weeds, and maintaining irrigation systems.

(h) Zone Two Requirements

- (1) The required Zone Two width shall be provided between Zone One and the undisturbed, flammable native or naturalized vegetation, and shall be measured from the edge of Zone One that is farthest from the habitable *structure*, to the edge of undisturbed vegetation.
- (2) No *structures* shall be constructed in Zone Two.

- (3) Within Zone Two, 50 percent of the plants over ~~18~~ 24 inches in height shall be ~~cut and cleared~~ reduced to a height of 6 inches. Non-native plants shall be reduced in height before native plants are reduced in height.
- (4) Within Zone Two, all plants remaining after 50 percent are ~~cut and cleared~~ reduced in height, shall be pruned to reduce fuel loading in accordance with the Landscape Standards in the Land Development Manual. Non-native plants shall be pruned before native plants are pruned.
- (5) The following standards shall be used where Zone Two ~~area is in~~ an area previously graded as part of legal development activity and is proposed to be planted with new plant material instead of *clearing* existing native or naturalized vegetation:
- (A) All new plant material for Zone Two shall be native or ~~naturalized~~ non-irrigated, low-fuel, and fire-resistive. No non-native plant material may be planted in Zone Two either inside the MHPA or in the Coastal Overlay Zone, adjacent to areas containing *sensitive biological resources*.
- (B) New plants shall be low-growing with a maximum height at maturity of ~~2 feet~~ 24 inches. Single specimens of fire-resistant native trees and tree form shrubs may exceed this limitation if they are located to reduce the chance of

transmitting fire from native or naturalized vegetation to habitable *structures* and if the vertical distance between the lowest branches of the trees and the top of adjacent plants are three times the height of the adjacent plants to reduce the spread of fire through ladder fueling.

- (C) ~~All new Zone Two plantings shall be temporarily irrigated until established. Permanent irrigation is not allowed in Zone Two. Only low-flow, low-gallongage spray heads may be used in Zone Two. Overspray and runoff from the irrigation shall not drift or flow into adjacent areas of native or naturalized vegetation. All new Zone Two plantings shall be irrigated temporarily until established to the satisfaction of the City Manager. Permanent irrigation is not allowed in Zone Two. Only low-flow, low-gallonage spray heads may be used in Zone Two. Overspray and runoff from the irrigation shall not drift or flow into adjacent areas of native or naturalized vegetation. Temporary irrigation systems shall be removed upon approved establishment of the plantings. Permanent irrigation is not allowed in Zone Two.~~

- (D) Where Zone Two is being revegetated as a requirement of Section 142.0411(a), revegetation shall comply with the spacing standards in the Land Development Manual. Fifty percent of the planting area shall be planted with material that does not grow taller than 24 inches. The remaining planting area may be planted with taller material, but this

material shall be maintained in accordance with the requirements for existing plant material in Zone Two.

- (6) Zone Two shall be maintained on a regular basis by pruning and thinning plants; and controlling weeds; and ~~maintaining any temporary irrigation system.~~
- (7) Except as provided in Section 142.0412(i), where the required Zone One width shown in Table 142-04H cannot be provided on premises with existing structures, the required Zone Two width shall be increased by one foot for each foot of required Zone One width that cannot be provided.
- (i) The Fire Chief may modify the requirements of this section if the following conditions exist:
 - (1) In the written opinion of the Fire Chief, based upon a fire fuel load model report conducted by a certified fire behavior analyst, the requirements of Section 142.0412 fail to achieve the level of fire protection intended by the application of Zones One and Two; and
 - (+)(2) The modification to the requirements ~~shall achieves~~ an equivalent level of fire protection as provided by this Section 142.0412, other regulations of the Land Development Code, and the minimum standards contained in the Land Development Manual; and
 - (2)(3) The modification to the requirements is not detrimental to the public health, safety, and welfare of persons residing or working in the area.

- (j) If the Fire Chief approves a modified plan in accordance with this section as part of the City's approval of a *development permit*, the modifications shall be recorded with the approved permit conditions.
- (k) For existing *structures*, the Fire Chief may require brush management in compliance with this section for any area, independent of size, location, or condition if it is determined that an imminent fire hazard exists.
- (l) Brush management for existing *structures* shall be performed by the owner of the property that contains the flammable native and naturalized vegetation. This requirement is independent of whether the *structure* being protected by brush management is owned by the property owner subject to these requirements or is on neighboring adjacent-property.

§143.0110 When Environmentally Sensitive Lands Regulations Apply

This division applies to all proposed *development* when *environmentally sensitive lands* are present on the *premises*.

- (a) Where any portion of the *premises* contains any of the following *environmentally sensitive lands*, this division shall apply to the entire premises, unless otherwise provided in this division:
 - (1) *Sensitive biological resources*;
 - (2) *Steep hillsides*;
 - (3) *Coastal beaches* (including V zones);
 - (4) *Sensitive coastal bluffs*; and
 - (5) *Special Flood Hazard Areas* (except V zones).
- (b) Table 143-01A identifies the appropriate development regulations, the required decision process, and the permitted uses applicable to various types of *development* proposals that propose to encroach into *environmentally sensitive lands* or that do not qualify for an exemption pursuant to Section 143.0110(c).
 - (7) A Neighborhood Development Permit or Site Development Permit is required for all types of *development* proposals listed, in accordance with the indicated decision process. If *coastal development* is proposed in the Coastal Overlay Zone, a Coastal Development Permit is required in accordance with Section 126.0702.
 - (8) All types of *development* proposals are subject to Section 143.0140.

- (9) Any *development* proposal that proposes to encroach into more than one type of *environmentally sensitive lands* is subject to all of the development regulations sections for each type of *environmentally sensitive lands* present. The applicable decision process is the higher process number indicated.
- (10) Any *development* proposal on a site containing *environmentally sensitive lands* may be exempt from the permit requirements of this division if no *encroachment* into the *environmentally sensitive lands* is proposed and the *development* complies with Section 143.0110(c). Within the Coastal Overlay Zone, a Coastal Development Permit is required for all *coastal development* and the regulations of this division shall apply.
- (11) Limited exceptions to the applicable *development* regulations for specific types of *development* are listed in Section 143.0111.

Table 143-01A
Applicability of Environmentally Sensitive Lands Regulations

Environmentally Sensitive Lands Potentially Impacted by Project						
Type of Development Proposal		Wetlands, listed non-covered species habitat ⁽¹⁾	Other Sensitive Biological Resources other than Wetlands and listed noncovered species habitat	Steep Hillside	Sensitive Coastal Bluffs and Coastal Beaches	Floodplains
1. Single dwelling units on individual lots equal to or less than 15,000 square feet ⁽²⁾	R	143.0141(a),(b)	143.0141	143.0142 except (a) ⁽⁵⁾	143.0143, 143.0144	143.0145 143.0146
	P	NDP/ Process Two	NDP/ Process Two	NDP/ Process Two	SDP/ Process Three	NDP/ Process Two
	U	143.0130(d),(e)	--	--	143.0130(a), (b)	143.0130(e)
2. Single dwelling units on lots or multiple lots totaling more than 15,000 square feet	R	143.0141(a),(b)	143.0141	143.0142	143.0143, 143.0144	143.0145
	P	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three
	U	143.0130(d),(e)	--	--	143.0130(a), (b)	143.0130(e)
3. Multiple dwelling unit and non-residential development and public works projects	R	143.0141(a),(b)	143.0141	143.0142	143.0143, 143.0144	143.0145 143.0146
	P	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three
	U	143.0130(d),(e)	--	--	143.0130(a), (b)	143.0130(e)
4. Any subdivision of a premises	R	143.0141(a),(b)	143.0141	143.0142 ⁽³⁾	143.0143, 143.0144	143.0145 143.0146
	P	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four
	U	143.0130(d),(e)	--	--	143.0130 (a), (b)	143.0130 (c)
5. Project-specific land use plans	R	143.0141(a),(b), 143.0115	143.0141, 143.0115	143.0142, 143.0115	143.0143, 143.0144, 143.0115	143.0115, 143.0145 143.0146
	P	SDP/Process Four/Five	SDP/ Process Four/Five	SDP/Process Four/Five	SDP/ Process Four/Five	SDP/Process Four/Five

Environmentally Sensitive Lands Potentially Impacted by Project						
Type of Development Proposal		Wetlands, listed non-covered species habitat ⁽¹⁾	Other Sensitive Biological Resources other than Wetlands and listed noncovered species habitat	Steep Hill-sides	Sensitive Coastal Bluffs and Coastal Beaches	Floodplains
	U	143.0130(d),(e)	--	--	143.0130(a), (b)	143.0130(c)
6. Any development that proposes deviations from any portion of the <i>Environmentally Sensitive Lands Regulations</i>	R	143.0141(a),(b), 143.0150	143.0141, 143.0150	143.0142, 143.0150 ⁽⁴⁾	143.0143, 143.0144, 143.0150	143.0145, 143.0146, 143.0150
	P	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four
	U	143.0130(d),(e)-	--	--	143.0130(a), (b)	143.0130(c)
7. Development other than single dwelling units on individual lots, that proposes alternative compliance for development area in steep hillsides.	R	--	--	143.0142 except (a), 143.0151	--	--
	P	--	--	SDP/ Process Three	--	--
	U	--	--	--	--	--

Legend to Table 143-01A	
R	Development regulation sections (in addition to Section 143.0140) applicable to the <i>environmentally sensitive lands</i> present.
P	Type of Permit/Decision process required. Neighborhood Development Permit (NDP) Site Development Permit (SDP)
U	Regulations that identify permitted uses when they are different than the applicable zone due to the <i>environmentally sensitive lands</i> present.

Footnotes to Table 143-01A

- 1 This includes listed species and their habitat not covered by the Take Authorizations issued to the City by the State and Federal governments under the Multiple Species Conservation Program.
- 2 This includes the *development* of one or more *lots* as long as the total area of the *lots* does not exceed 15,000 feet and the *lots* were not joined in ownership to any contiguous *lot* or parcel on or before the adoption date of this division so that the total area of contiguous ownership exceeded 15,000 square feet.
- 3 Outside the Coastal Overlay Zone, *subdivision* of a *premises* less than 15,000 square feet (for *single dwelling unit development*) is not subject to Section 143.0142(a).
- 4 Development other than a *single dwelling unit* on an individual *lot* may use alternative compliance for development area in *steep hillsides* that does not comply with Section 143.0142(a).
- 5 Within the Coastal Overlay Zone, *single dwelling units* on individual *lots* equal to or less than 15,000 square feet are subject to Section 143.0142(a).

- (c) A Neighborhood Development Permit or Site Development Permit is not required for the following *development* activity:
- (1) Outside the Coastal Overlay Zone, *development* on a *premises* containing *environmentally sensitive lands* when the development will not encroach into the *environmentally sensitive lands* during or after construction, if the property owner signs an acknowledgment that further *development* on the property is not permitted unless the *development* is reviewed and approved pursuant to this division and if the development proposal provides for the following:
 - (A) A 100-foot *setback* from sensitive *biological resources*;
 - (B) A 40-foot *setback* from the top of slope of *steep hillsides*;
 - (C) A 100-foot *setback* from *floodplains*.
 - (2) *Development* that is limited to interior modifications or repairs, or any exterior repairs, alterations or maintenance that does not increase the footprint of an existing building or accessory *structure* and will not encroach into the *environmentally sensitive lands* during or after construction. For a *premises* containing a *sensitive coastal bluff*, any addition shall observe a minimum 40-foot *setback* from the *coastal bluff edge*.
 - (3) Outside the Coastal Overlay Zone, minor improvements to existing *structures* on *steep hillsides*, subject to all of the following applicable requirements:
 - (A) *Clearing* and *grubbing* shall not exceed 100 square feet per acre.
 - (B) *Excavation* for foundations or pilings shall total less than 10 cubic yards.
 - (C) The proposed improvements do not *encroach* into *sensitive biological resources*.
 - (D) One story *structures* supported by pilings or pillars may be located on *steep hillsides* provided that the total of all *encroachments* into the *steep hillsides* area does not exceed 5 percent of the total *floor area* of the building or *structure*.
 - (E) Residential decks up to 500 square feet may be located on *steep hillsides* provided that the deck is attached to the building or *structure* and does not exceed 12 feet in elevation above the *existing grade* at any *point*.
 - (4) *Development* activity that is limited to permissible *grading* for the preparation of a site for cultivation of crops and where *grading* for agriculture purposes has occurred in compliance with all legal requirements within the previous 3 years.

- (5) Outside the Coastal Overlay Zone, city public works projects for which plans, specifications, or funding have been approved by the City Council or the City Manager before July 1, 1991.
- (6) Outside the Coastal Overlay Zone, restoration projects where the sole purpose is enhancement or restoration of native habitats.
- (7) Except for brush management in wetlands in accordance with
Section 142.0412(a)(3), Zone Two brush management activity if
the brush management complies with the landscape regulations in
Chapter 14, Article 2, Division 4 (Landscape Regulations) and the
Biology Guidelines.

DRAFT
TABLE 1
VEGETATION COMMUNITY ACRES CONSERVED IN CITY OF SAN DIEGO AREAS:
CORNERSTONE LANDS, AND SAN PASCUAL VALLEY

Vegetation Community	Southern Area	Fairfax Area	Urban Area	Northern Area	Hodges/San Diego Area	San Vicente Area	Marion Valley	TOTAL	Modified Goal - 2003	REMOVED	Coastal Zone	Conserved to date in C2	Conserved in MHPA to date in C2
Beach	127	0	0	0	0	0	0	127	0	0	0	127	127
Shrubland	0	0	0	0	0	0	0	0	0	0	0	0	0
Southern Forestland	0	0	0	0	0	0	0	0	0	0	0	0	0
Southern Coastal Scrub	0	0	0	0	0	0	0	0	0	0	0	0	0
Coastal Sage Scrub	1267	3759	2001	3739	3443	1278	640	18851	308	173	17	1427	1418
Maritime Succulent Scrub	238	0	76	367	0	0	0	681	103	884	8	762.2	762.2
Chaparral	0	1449	729	4226	2474	153	1159	2308	10424	148.3	22.6	7614.0	7178.3
Southern Maritime Chaparral	0	0	20	1082	0	0	0	1102	26	1128	12.5	977.3	964.8
Coastal Sage/Chaparral	0	11	1	85	8	1	6	3	95	2.5	98	0.1	284.1
Grassland	201	618	951	2049	178	121	23	1	4842	72.2	8014	11.4	3550.5
Southern Coastal Salt Marsh	237	0	120	579	0	0	0	938	0	938	0	788.2	788.2
Freewater Marsh	10	2	5	94	88	52	1	232	0	232	0	76.3	41.5
Riparian Forest	82	76	73	152	137	38	1	77	614	0	614	0	429.3
Oak Riparian Forest	0	41	93	22	172	0	0	36	105	409	0	567	0
Riparian Woodland	0	24	261	263	0	0	0	0	567	0	567	0	313.8
Riparian Scrub	1172	187	424	471	389	23	16	108	2749	0	2749	0	511.7
Oak Woodland	1	25	40	40	129	0	61	28	329	3.3	332	0	178.4
Conifer Forest	0	0	0	744	0	0	0	144	1.3	145	1.4	144.5	144.5
Conifer Shrubland	0	0	0	0	0	0	0	0	0	0	0	0	0
Open Woodland	2	0	0	0	0	0	0	2	0	2	0	0	0
Open Shrubland	689	35	323	222	85	259	89	0	133	383	1.3	529.3	528.0
Disturbed Wetlands	110	3	11	86	253	22	149	19	589	0	589	0	144.8
Natural Flood Channel	4	24	9	1	229	3	3	22	235	0	235	0	42.3
Shallow Bays	91	0	134	0	0	0	0	225	0	225	0	268.4	268.4
Other Habitat	104	0	47	1	4	0	0	157	87.5	245	25.1	954.3	809.4
Herbaceous Subshrub	5884	6463	6346	14477	8078	2532	3288	2378	47782	860	48442	109.6	31703.8
Unimproved	88	227	155	435	585	56	21	100	2447	28.6	2476	3.1	1837.3
Agriculture	745	0	0	692	375	1	0	1803	5.9	1809	1.0	1294.0	1064.6
TOTAL	5816	6890	6801	15697	9038	2609	3287	2378	52012	715	52727	113.6	24933.1


Note: Numbers are in thousands of acres. The above figures do not reflect exclusions of areas from the MHPA (see Section 12.6). The above figures reflect the estimated conservation for each vegetation community based upon the application of the MHPA boundary and the MHPA boundary modifications made during the public hearing process.

1. Cornerstone lands outside City of San Diego jurisdiction.
2. Developed areas with habitat value.
3. San Diego City Council Resolution (CS-2003-03) increased the MHPA conservation goal by 715 acres in conjunction with modifications to the City's brush management regulations.
4. The above figures are approximate and do not reflect minor MHPA boundary modifications made during the public hearing process.
5. Individual Totten plans would be prepared for removal.

EXHIBIT NO. 3

**Expected impacts to
Various Habitats Citywide
and in the Coastal Zone**

**San Diego LCPA #1-07/
Brush Management Regs.**

 **California Coastal Commission**

3308

Dup.

(R-2006-166)
(COR.COPY)

RECEIVED

RESOLUTION NUMBER R- 300799ADOPTED ON SEP 06 2005

OCT 14 2005

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

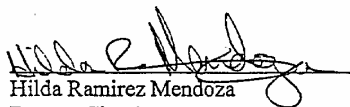
WHEREAS, the expansion of Zone Two brush management, pursuant to the amendments of the Land Development Code by Ordinance Number O - 15413, into the Multi-Habitat Planning Area [MHPA] covers approximately 715 acres of public and private lands adjacent to existing development; and

WHEREAS, to further reduce the impacts to the MHPA from the expansion of the brush management zones, the California Department of Fish and Game and the United States Fish and Wildlife Service have requested that the conservation target identified in the City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan be increased; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the City Manager or his representative is authorized to take the necessary actions to increase the conservation target of land under the City's MSCP Subarea Plan by 715 acres.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By


Hilda Ramirez Mendoza
Deputy City Attorney

HRM:cfq
08/23/05
09/01/05 COR.COPY
Or.Dept:Fire Rescue
R-2006-166
MMS#395

-PAGE 1 OF 1-

EXHIBIT NO. 4

Authorization for Increase
in MHPA Conservation
GoalSan Diego LCPA #1-07/
Brush Management Regs. California Coastal Commission

Passed and adopted by the Council of The City of San Diego on SEP 06 2005,
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
District 2 - Vacant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
District 8 - Vacant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor - Vacant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

(Seal)

TONI ATKINS,
Deputy Mayor of The City of San Diego, California.

LIZ MALAND,
City Clerk of The City of San Diego, California.

By , Deputy.

Office of the City Clerk, San Diego, California

Resolution Number R 300799 Adopted SEP 06 2005

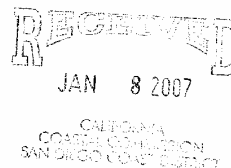
This information is available in alternative formats upon request.

CC-0000 (Rev. 1-01-01) CC-0000 (Rev. 1-01-01)

EL



JERRY SANDERS
MAYOR



Thu 6c

January 4, 2007

Chairman Patrick Kruer
California Coastal Commission
c/o The Monarch Group
7727 Herschel Avenue
La Jolla, CA 92037

Dear Chairman Kruer:

SUBJECT: City of San Diego Brush Management LCPA Application 3-05B

While I recognize and share the Coastal Commission concern for protection of environmentally sensitive habitat, I am disappointed by your staff recommendation to deny the City of San Diego Brush Management application. The proposed brush management amendments were developed after extensive analysis and discussion, which culminated in agreement and support by the wildlife agencies and unanimous approval by the City Council in September 2005. The proposed regulations provide important protection to environmentally sensitive lands in the coastal zone that are not otherwise protected under the City's existing Local Coastal Program certified by the Coastal Commission in 1999 (currently in effect in the coastal zone areas).

The City's proposal takes into consideration timing of the breeding season for environmentally sensitive species and adds an additional 715 acres of core habitat to the City's Multi-Habitat Planning Area, including 113.6 acres of environmentally sensitive habitat in the coastal zone. The proposal also goes above and beyond the existing Memorandum of Understanding between the Fish and Wildlife Services, California Department of Fish and Game, California Department of Forestry, San Diego County Fire Chief's Association, and San Diego County Fire Districts Association dated February 26, 1997, which recognizes the need for brush management in the context of the urban wildlife interface.

The City has worked hard in the aftermath of the wildfires that raged through San Diego County just three years ago to prevent such destruction to life and property from ever

EXHIBIT NO. 5
Letters of Support
San Diego LCPA #1-07/ Brush Management Regs.
12 Pages
California Coastal Commission

Chairman Patrick Krueer
The Monarch Group
January 4, 2007
Page 2

happening again. The new brush management regulations, which took effect outside of the coastal zone in October 2005, carefully balance protection of environmentally sensitive habitat areas consistent with the City's Multiple Species Conservation Plan, with the imminent need for fire protection as recommended by the City's Fire Chief. The City's LCPA 03-05B is a request to approve the new brush management regulations in the coastal zone to ensure that an equivalent level of resource and fire protection is achieved citywide.

The City's proposed regulations:

- Achieve fire protection as recommended by the City's Fire Chief for public safety
- Are more protective of sensitive resources than the existing certified LCP by limiting timing (not permitted during breeding season) and limiting intensity of the activity (thinning and pruning instead of clearing and cutting)
- Add 715 acres of core habitat to the City's MHPA including 113.6 acres to the coastal zone in accordance with City Council Resolution R-300799 adopted on September 6, 2005.
- Are consistent with the City's MSCP plan dated March 1997 and wildlife agency implementing agreements
- Are consistent with the City's Brush Management EIR certified September 19, 2005
- Create predictable regulations for property owners
- Address coastal development proposals on a site-specific basis through existing permit processes

I encourage you to support the City's proposed brush management regulations, which provide for increased fire and resource protection in the coastal zone, and to reject the suggested modifications included in the December 26, 2006 staff report that are inconsistent with the policies of the City's MSCP and Local Coastal Program. The suggested modifications would inappropriately remove the fire protection decision process from the Fire Chief and instead create an unnecessary bureaucratic permit process. Such a program would negatively impact existing single family homeowners and is expected to work counter to the common goal to certify an effective brush management program.

Alternatively, if the Commission decides to accept the staff recommendation, the City will regretfully be forced to continue to apply the existing certified LCP regulations and policies in the coastal zone which are less protective of public safety and more impactful

Chairman Patrick Kruer
The Monarch Group
January 4, 2007
Page 3

to sensitive resources. I hope you support the resource and fire protection benefits of the City of San Diego's proposed Brush Management LCPA application 3-05B.

Thank you for your consideration.

Sincerely,



Jerry Sanders
Mayor

MEE/AJL

cc: Council President Peters, District 1
Councilmember Faulconer, District 2
Councilmember Atkins, District 3
Councilmember Young, District 4
Councilmember Maienschein, District 5
Councilmember Frye, District 6
Councilmember Madaffer, District 7
Councilmember Hueso, District 8
Commissioner Meg Caldwell, Vice-Chair
Commissioner Sara Wan
Commissioner William Burke
Commissioner Steven Kram
Commissioner Mary K. Shallenberger
Commissioner Bonnie Neely
Commissioner Mike Reilly
Commissioner Dave Potter
Commissioner Khatchik Achadjian
Commissioner Larry Clark
Commissioner David Allgood
Ellen Lirley, Coastal Program Analyst, San Diego Office

007 14:01 Brian Maienschein → 7672384

NO. 656 32

RECEIVED

JAN 4 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT**6c**

January 4, 2007

Patrick Kruer
Chairman, California Coastal Commission
7727 Herschel Ave.
La Jolla, California 92037

Dear Patrick,

It has come to my attention that the Coastal Commission staff has recommended changes to the City of San Diego's Local Coastal Program Amendment No. 3-05B related to Brush Management. I believe the proposed modifications are a detriment to the public safety of our residents and may result in unintended consequences.

The proposal to require a permit to do brush management within the coastal zone may be too expensive and too time consuming for residents to pursue. Ultimately, the expense of the permit and time spent processing it may cause residents to give up plans for brush management, which would have otherwise improved the safety of their lives and homes.

I am also concerned about Staff's proposal to eliminate the use of goats to clear brush in the coastal zones. Constituents in the Scripps Ranch area of my district, who experienced the loss of 312 homes in the Cedar Fire of 2003, led a successful project where goats were used for project management. Entire neighborhoods are now safer because of the goats, and the residents saved money by using goats instead of traditional brush management crews.

I urge the Coastal Commission to reject these recommended modifications. Thank you very much for your consideration of my request.

Sincerely,

*Brian Maienschein*Brian Maienschein
Councilmember

Cc: Coastal Commissioners

**LETTER OF OPPOSITION TO
STAFF RECOMMENDATION**

7

01/10/2007 16:22 FAX 7604315902

US FISH AND WILDLIFE

002



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road
Carlsbad, California 92011



In Reply Refer To:
FWS-SDG-4072.3

Thu 6c

Chairman Patrick Krueger
California Coastal Commission
7727 Herschel Ave.
La Jolla, California 92037

JAN 10 2007

Subject: City of San Diego Local Coastal Program Major Amendment No. 3-05B (Brush Management Regulations)

Dear Chairman Krueger:

This letter is in regards to the City of San Diego (City) Local Coastal Program Major Amendment No. 3-05B (Brush Management Regulations) (Amendment). The comments provided herein are based on the California Coastal Commission's (Commission) Staff Recommendation on the Amendment, the Subsequent Environmental Impact Report/Environmental Assessment for the Amendment (dated September 2004), and the Service's previous correspondence with the City regarding the Amendment.

The City has addressed the Service's major concerns regarding the Amendment by passing a resolution to mitigate brush management impacts to the Multiple Habitat Planning Area (MHPA) established under its Multiple Species Conservation Program by adding 715 acres to the MHPA, and generally prohibiting brush management during coastal California gnatcatcher (*Polioptila californica*) breeding season. While some details regarding implementation of the Amendment need to be worked out, we trust that the City will work out these details with us in the future and strongly encourage the Commission to approve the Amendment.

Thank you for the opportunity to comment on the Amendment. If you have any questions or require additional information, please contact Ayoola Folarin at (760) 431-9440 x251.

Sincerely,

Therese O'Rourke
Assistant Field Supervisor
U.S. Fish and Wildlife Service

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JAN 10 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

TAKE PRIDE
IN AMERICA



Thu 6c

January 9, 2007

JN 25100803.001

Chairman Patrick Kruer
California Coastal Commission
c/o The Monarch Group
7727 Herschel Avenue
La Jolla, CA 92037

Subject: City of San Diego Brush Management LCP Amendment 3-05B
Item Th 6C - Commission Meeting of January 11, 2007

Dear Chairman Kruer:

It is our understanding that the Commission is proposing additional modifications to the City's brush management regulations at their meeting on January 11, 2007 that may affect development projects that were designed (and in some cases, redesigned) to comply specifically with the Commission's brush management regulations certified in 2006 under LCP Amendment 2-04C for Carmel Valley Neighborhood 8.

In particular, we are writing on behalf of our client, Mr. Michael C. Finley, the owner of a residential project known as Creekside Villas located in Carmel Valley Neighborhood 8 within the Coastal Zone. The project had been in the discretionary review process for three years when the Commission certified new brush management regulations in January 2006 for the area, which resulted in a substantial redesign of Creekside Villas to conform to these new regulations. After another year of processing, the Creekside Villas received all City-required discretionary approvals. The project is expected to be heard by the Commission in March or April of this year.

Our concern is that, if the Commission certifies the proposed modifications to the brush management regulations, Creekside Villas may be subject to additional conditions, or a new interpretation of the previously certified regulations for Neighborhood 8, which would have a chilling effect on the project. As designed, Creekside Villas incorporates the measures recommended in a fire management plan prepared by certified fire behavior analysts at Schirmer Engineering, which was tailored to address the specific vegetative, topographic, and climatic conditions of the project site. These measures include protective structural and site design improvements, and fuel load management that minimizes impacts to the MHPA. In addition, the project mitigates all sensitive biological impacts through onsite restoration. It would be unnecessarily burdensome to apply new standards to a project that has been in the review process for over four years and complies with all current City brush management/fire protection regulations, as well as the additional regulations certified in 2006 by the Commission as part of LCP Amendment 2-04C. We ask that Creekside Villas be evaluated against these regulations that were in effect at the time the project was designed, and that any modification that would result in new measures, conditions, or redesign, not be applied to this project.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Jeff Barfield', written over a horizontal line.

Jeff Barfield
Vice President, Planning

RECEIVED

Michael C. Finley, Coastal Program Analyst, San Diego Office
Michael C. Finley, Creekside Villas LLC

JAN 10 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

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Thu KC

3-05B

JERRY MITCHELL



Scripps Ranch Fire Safe Council

A SAN DIEGO COMMUNITY FIRE PREVENTION ORGANIZATION

January 8, 2007

To: California Coastal Commission

From: Jerry Mitchell, Director, Scripps Ranch Fire Safe Council, San Diego, California

This submission is in support of San Diego LCP Amendment No. 3-05B (Brush Management Regulations).

As users who are dedicated to making our Community, and our City a safer place to live by establishing firebreaks along the wildland/urban interface, we support this amendment and request that you give it favorable consideration.

We could write at length on the requirement for adequate firebreaks in the southern California environment. However we have forwarded as an attachment to this letter a memorandum sent to our Citizen Activists in Scripps Ranch two months ago. It tells you how we at ground level feel about this issue.

Director

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JAN 9 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

12056 Medoc Lane San Diego, CA 92131 (858-945-6303) srfiresafecouncil@mac.com

October 29, 2006

From: Scripps Ranch Fire Safe Council
To: South Pomerado Fire Safe Council Chapters

Subj: A Summary of the Goat-Brush Abatement Project

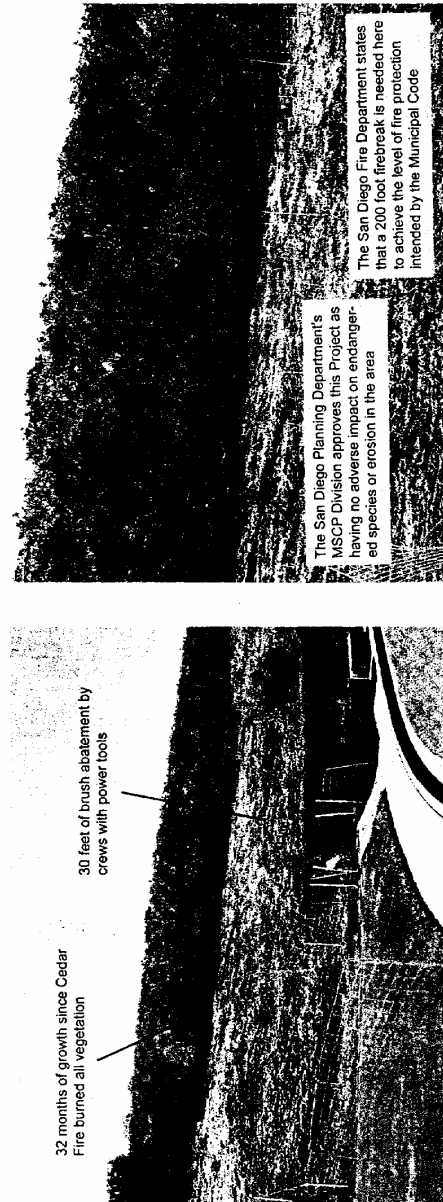
No question -- the Esperanza Fire really puts your past eleven-month effort into perspective. Inferno unchecked for days. Flames over 100 feet. Exploding eucalyptus groves. Fatalities. That wildfire could have been in Scripps Ranch (again). But now, due to your efforts, we are prepared with a fire break. I'm sure the 185 homeowners in your neighborhoods who contributed to this Project are feeling sense of pride, and are much more comfortable about their safety.

Whispering Ridge South FSC: You guys really did blaze the trail in employing goats in urban settings with your tenacity, focus, and dedication -- while we all were learning some very difficult lessons. The City also benefited from this experience as this was the first major goat project since the enactment of the new ordinance. Your effort was the key to success for all of us.

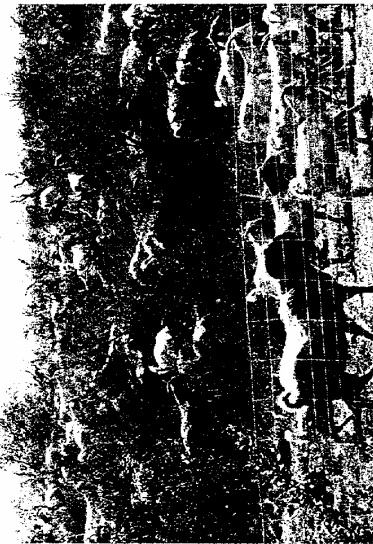
The goats will be moving on to Pacific Palisades next week and I will be glad for several reasons -- the most important being that they made it to the end and the objective was achieved. 82 acres were treated. 412 homes within the Wildfire Urban Interface high-risk zone are directly benefited. The cost was \$61,489 -- One-fifth the cost of using human crews with mechanized equipment for cutting and hauling.

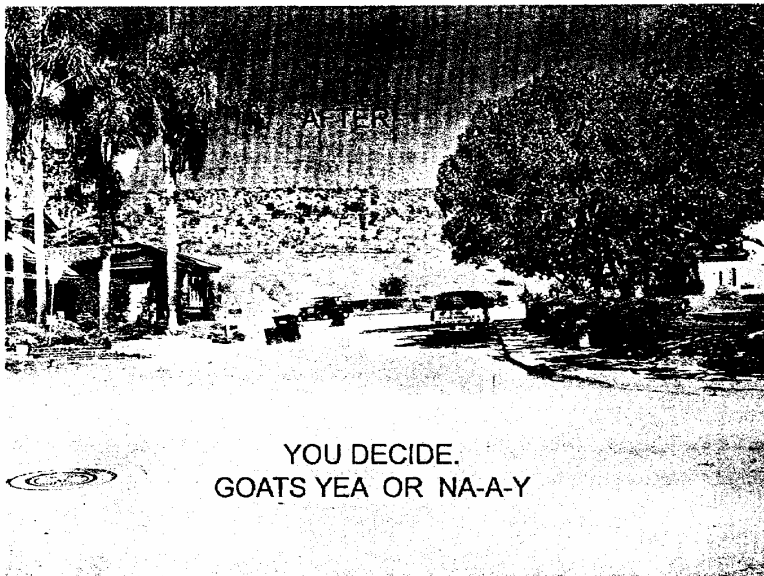
Yesterday, I attended a Goat-Block Party in Birch Bluff. 80 people from the neighborhood and across the city attended and watched the goats at work on the fire break behind the home. It was exciting to all to watch nature at work, an expression of community appreciation, and a great sendoff for the environmental company who conducted the work

Jerry Mitchell
Facilitator
Scripps Ranch Fire Safe Council
12056 Medoc Lane
San Diego, CA 92131
858-945-6303
jmitchel@san.rr.com



THE GOATS GET DOWN TO BUSINESS





rec'd 1/11/07
@ccc hearing



January 9, 2007

Re: PACIFIC RIDGE NEIGHBORHOOD HOMEOWNERS ASSOCIATION

To whom it may concern:

Mr. Gonzales and his crew recently performed the annual brush abatement in our community. We were very pleased with the work that was completed. We found that using the goats was a much more efficient way of performing our abatement. The goats have cleared all brush including the dried up ones while leaving the healthy roots and stems intact. The herd was contained within the defined perimeters and did not go beyond the electric fence. We have some steep hills in our association that needed brush abatement and we were not able to get any one to clear these steep areas due to the high risk factor to the clearing crew while the goats were able to clear the steepest hill with ease.

In previous years we have contracted brush abatement companies to perform the work and we were not completely satisfied with the results. This year we saw much improvement in the clearing and removal of the brush.

We have also received positive feedbacks from homeowners who appreciated the more environmental friendly way of performing the work. Not only the goats worked quietly and efficiently but also they were enjoyable to watch by all the neighborhood kids and their parents. Everyone gathered to watch the goats working and started taking memorable pictures. In the years that we had the work performed by the brush abatement companies we had never received any positive feedback from the homeowners in our community and we were very glad to hear their good comments and the thanks for using the goats. We will certainly be considering using this method of brush abatement in the future!

Sincerely,
Board of Directors
Pacific Ridge Neighborhood Association

**Canyon Trails II Homeowners Association
Eclipse Road / Eclipse Place
Rancho Penasquitos, San Diego**

rec'd 1/11/07
@CCC hearing

January 10, 2007

To Whom It May Concern:

I am the president of the Canyon Trails II Homeowner's Association, located in Rancho Penasquitos overlooking Park Village Elementary School. Our association was formed primarily for the purpose of brush abatement of our common area slope which abuts 23 of our 35 member homes. It is my understanding that when the developer, Shea Homes, sought approvals from the City of San Diego in regard to this development that the City required the formation of an HOA as the City did not want the responsibility of maintaining yet another fire break. Insofar as this is the primary purpose for the existence of our HOA, it follows that this is our primary expense, which is not insubstantial.

Over the 10 years that I have lived in this development, we have in the past utilized manpower to effectuate this biannual clearing. It has been expensive and difficult for the manual labor given the steepness, size and rockiness of our slope. Given the serious fires recently experienced in the Scripps Ranch area, and the more recent fire that was caught early in our own Penasquitos Canyon, brush fires are a major concern in our community. We had heard of the use of Environmental Land Management's goats in other communities and, after much investigation, decided to give them a try. It was our understanding that they could be a cheaper and more thorough solution.

Environmental Land Management has just completed their three week stay in our community and have done a tremendously thorough job of clearing the brush adjacent to our homes. The goats have cleared away all ground brush including all dead plant matter. They have thinned the tall scrub and short trees to the extent they could reach by standing on branches. They have been very effective, even more so than the manpower we have utilized in the past. The cost has also been significantly cheaper. The difference between our development which has to maintain its own fire break, and our surrounding neighbors who are not required to do so, is night and day. We feel that our development is much safer as a result.

Personally I feel that the goats have provided a superior alternative to utilizing manpower. They appear to do a more thorough clearing, they are cheaper, and there is no need to haul out all of the dead brush which is required when utilizing manpower – the goats eat it all on site!

Sincerely,



William Persky
President, Canyon Trails II HOA

01-09-2007 02:54 SUPERKUN 8584567567

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JAN 9 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

TH 6C

Hon. Patrick Kruer, Chair

California Coastal Commission

January 9, 2007

RE: ITEM TH 6C

RECOMMENDATION: APPROVE PER STAFF WITH CLARIFICATIONS

Dear Chairman Kruer and Commissioners:

The San Diego Coastal Committee recommends that the Commission approve this important item and associated Suggested Modifications per staff, with clarifications. In particular:

1. Mitigation requirement is a critical element in our support of staff, and particularly for habitat losses due to expanded brush management zones. Replacement of Coastal Zone losses must be located in the Coastal Zone
2. It is a particular concern that mitigation for the habitat loss resulting from the 100' setback requirement from flammable brush not be used by the City to build out its MSCP Reserve. While that has happened in the past, that was never the understanding when the MSCP was approved by the City. Any mitigation should be accomplished in the affected community plan area if possible, or at least, in the closest feasible area of the Coastal Zone.
3. Please insure that any brush management on steep slopes or coastal bluffs be conditioned by permit to avoid any impacts to slope stability and runoff that could result from removal or severe pruning of habitat for brush management purposes.
4. Please clarify how setbacks and brush management for LCP community plan designated and/or dedicated open space, which, according to staff, are too small, isolated, or damaged, to be included in the current application, would be accomplished. We strongly support a permit requirement for such brush management activities, both in coastal ESHA and LCP Open Space designated lands.

Thank you for your consideration of these recommendations.

Joanne H. Pearson, Chair
San Diego Sierra Club Coastal Committee

3820 Ray Street, San Diego, CA 92104-3623
www.sierraclub.org



EXHIBIT NO. 6
Letters of Opposition
San Diego LCPA #1-07/ Brush Management Regs.
4 Pages
California Coastal Commission

RECEIVED

JAN 8 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

MRS. J.E. HUGHES
7520 HILLSIDE DRIVE
LA JOLLA, CALIFORNIA 92037

RE: TH 6C
AMENDMENT NO.3-05B
COMMISSION MEETING JAN. 10-12/07

Thu 6c

DEAR SHERILYN SARB
DEBORAH LEE
ELLEN LIRLEY

THANK YOU FOR THE REPORT. WHILE I AM GENERALLY IN SUPPORT OF THE SUGGESTED MODIFICATIONS IN PART III, I WRITE TO ASK YOUR AND THE COMMISSIONS SUPPORT OF WHAT I FEEL NEEDS TO BE A MAJOR CONSIDERATION.

IN THE URBANIZED COASTAL ZONE, THE REMAINING NATIVE VEGETATIONS, PROTECTED MAINLY STEEP HILLSIDES, CANYONS, STEEP NATURAL PARKLANDS, OR OTHER LEFTOVER AREAS AND NEIGHBORING PROPERTIES, FROM EROSION, LANDSLIDES, AND FLOODING PROBLEMS. BUT: GRADING AND BRUSH MANAGEMENT, CAN, AND HAS, CAUSED SUCH DISASTERS.

THE PRESENTLY PROPOSED LANGUAGE FOR MODIFICATIONS, OMITTS THIS MAJOR CONSIDERATION TO BE GIVEN IN COMBINATION WITH BRUSH MANAGEMENT AND FIRE PROTECTION, WHICH IS TO BE GUIDED BY THE FIRE CHIEF.

THIS OMISSION WOULD, BESIDES SAFETY CONCERNS, ALSO DISREGARD THE LA JOLLA LCP, WHICH DESIRES PROTECTION OF CANYONS, HILLSIDES AND THEIR NATIVE VEGETATION AND HABITAT, WHICH IS POINTED OUT IN YOUR REPORT.

I THEREFOR ASK THAT EROSION, LANDSLIDE, AND DRAINAGE PROBLEMS, BE REQUIRED TO BE EVALUATED IN COMBINATION WITH FIRE PROTECTION MEASURES AND ARE CONSIDERED OF EQUAL IMPORTANCE IN THE LCP.

RESPECTFULLY SUBMITTED

ATTI HUGHES

Atti Hughes

Thu leC

Friends of Sunset Cliffs
Incorporated

1071 Sunset Cliffs Blvd.
San Diego, CA 92107

TO: California Coastal Commissioners

FROM: Friends of Sunset Cliffs, Inc.

DATE: January 8, 2006

rec'd 1/11/07
@ CCC hearing

SUBJECT: Support of the California Coastal Commission's Staff Recommendation on City of San Diego Major Amendment No. 3-05B (Brush Management Regulations) for the Coastal Commission Meeting on January 11, 2007

Dear California Coastal Commissioners:

Friends of Sunset Cliffs, Inc., agrees with the recommendation of the California Coastal Commission staff to deny the LCP amendment as submitted, then approve with staff's suggested modifications which are protective of the environmentally sensitive habitat areas (ESHA) protected by the California Coastal Act.

Sunset Cliffs Natural Park, which would be directly affected by these brush management regulations, is designated as a Multiple Habitat Preservation Area (MHPA) and contains many environmentally sensitive native species. It would be protective of our endangered native habitat to require a coastal development permit when brush management needs impact our environmentally sensitive areas and to require mitigation within the park if brush management is deemed necessary. We also support the staff's distinction between brush management to protect existing habitable structures as compared to new development or subdivisions.

We are sure the Coastal Commission, as well as Friends, is acutely aware of the diminishing area for native coastal plants. You and we are also aware of the increasing economic value of coastal areas. Whereas in some areas it may make sense to provide 100 foot separation from structures, in the coastal area it makes better sense to provide the minimum necessary zone but augmented by other protection such as an increased density of fire hydrants. We believe that "brush" removal should be a last choice and mitigated where necessary.

Sincerely yours,



Eric R. Swanson, President
Friends of Sunset Cliffs, Inc.

Thu bc

Sunset Cliffs Natural Park Recreation Council

685 Silvergate Avenue
San Diego, California 92106

TO: California Coastal Commissioners

FROM: Sunset Cliffs Natural Park Recreation Council

DATE: January 8, 2006

rec'd 1/11/07
@ CCC hearing



SUBJECT: Support of the California Coastal Commission's Staff Recommendation on
City of San Diego Major Amendment No. 3-05B (Brush Management
Regulations) for the Coastal Commission Meeting on January 11, 2007

Dear California Coastal Commissioners:

The Sunset Cliffs Natural Park Recreation Council (SCNPRC) supports the California Coastal Commission staff's recommendation to deny the Local Coastal Plan (LCP) amendment as submitted, and then to approve the LCP amendment with staff's suggested modifications which are protective of the environmentally sensitive habitat areas (ESHA) protected by the California Coastal Act.

Sunset Cliffs Natural Park, which would be directly affected by these brush management regulations, is designated as a Multiple Habitat Preservation Area (MHPA) and contains many environmentally sensitive native species. It would be protective of our endangered native habitat to require a coastal development permit when brush management needs impact our environmentally sensitive areas and to require mitigation within the park if brush management is deemed necessary. We also support the staff's distinction between brush management to protect existing habitable structures as compared to new development or subdivisions.

Thank you for supporting the staff's important recommendations.

Sincerely,

Larry McCleary, Corresponding Secretary, for

Barbara Keiller, PhD, Chair, Recreation Council