

**CALIFORNIA COASTAL COMMISSION**

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April 27, 2017

**Th17f****TO: COMMISSIONERS AND INTERESTED PERSONS****FROM: KARL SCHWING, DEPUTY DIRECTOR SAN DIEGO COAST DISTRICT  
DEBORAH LEE, DISTRICT MANAGER SAN DIEGO COAST DISTRICT  
ALEX LLERANDI, COASTAL ANALYST SAN DIEGO COAST DISTRICT****SUBJECT: STAFF RECOMMENDATION ON CITY OF SAN DIEGO LCP AMENDMENT  
No. LCP-6-MBE-16-0029-6 (Mission Beach Residences) for Commission Meeting of  
May 10-12, 2017**

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**SYNOPSIS**

The subject LCP implementation plan amendment was submitted on May 25, 2016 and filed as complete on December 14, 2016. The date by which the Commission must have taken action was March 14, 2017. In order to reach the May hearing, the City granted to the Commission a waiver of the 90-day period on April 25, 2017. This report addresses one of five components of the City of San Diego's first major LCP amendment submittal for the 2016 calendar year. The submittal's other components consist of LCP-6-CCP-0025-2 (Downtown Employment Overlay Zone Amendments); LCP-6-SAN-16-0026-3 (Rooming House Ordinance); LCP-6-SAN-16-0027-4 (10<sup>th</sup> Update Land Development Code); and LCP-6-NOC-16-0028 (Tierra Alta). To date, all of the other components of the City's LCP submittal have been approved by the Coastal Commission except in the case of Tierra Alta, where the item was withdrawn.

**SUMMARY OF AMENDMENT REQUEST**

The subject submittal consists of an amendment to the Mission Beach Precise Plan (Precise Plan), which serves as the Land Use Plan (LUP) of the certified Local Coastal Program (LCP) for the community of Mission Beach in the City of a San Diego. The amendment proposes to change the land use designation of the former main campus of the currently closed Mission Beach Elementary School, north of Santa Barbara Place, from "School" to "Residential" so as to permit the demolition and redevelopment of the school site with private residences, open space park, establishment of a pedestrian court, and vehicular alleys. The amendment would delete existing Precise Plan figures showing the subject site as designated for school use and replace them with updated figures showing the site designated for residential and park use. The amendment would also delete the "Schools" subsection of the "Community Facilities Element" of the LUP addressing the school site, and modify the language of the "Parks and Recreation" subsection of the same element, to clarify that only a portion of the school site would be set aside as community open space.

## **SUMMARY OF STAFF RECOMMENDATION**

Staff is recommending denial of the LUP amendment as submitted, then approval with suggested modifications.

Mission Beach Elementary School was the only public school located within Mission Beach. The elementary education function ceased in the summer of 1973, when the facility was converted to a special education school and the elementary students transferred to Farnum Elementary in neighboring Pacific Beach. The special education program continued until the early 1980's, when that function ceased and the site was used for administrative purposes by the San Diego Unified School District (SDUSD) until 2013, when the property was sold to the applicant.

The amendment to the Precise Plan addresses the 1.88-acre northern campus of the now-closed Mission Beach Elementary School, at the northeast corner of Mission Boulevard and Santa Barbara Place. The proposed amendment would change the land use designation of the northern campus from "School" to "Residential" and delete the related LUP language regarding school use. The project-driven LUP amendment is designed to facilitate the Mission Beach Residences development, which consists of the demolition of the existing school facilities and construction of seventeen new structures consisting of one single family residence, two duplexes, ten triplexes, and four quadplexes, for a total of 51 dwelling units and an approximately 0.201-acre linear park on the western boundary of the site along Mission Boulevard.

The 1.88-acre site located north of Santa Barbara Place represents the last major developable site in the Mission Beach community, and would be the largest development in many years. The entire community is located within the coastal zone and is a prime tourist destination with numerous beach, dining, recreational, and entertainment amenities utilized by local residents and tourists alike. Because the community is located on a peninsula only two miles long and a quarter-mile wide, it is densely developed and underserved by existing street, public parking reservoirs, and open space resources, especially during the busy summer months. The proposed amendment presents several potential adverse impacts to the public's ability to access the nearby beach, Mission Bay Park, and other coastal destinations.

In terms of overview, the following Coastal Act issues and priority concerns are not sufficiently addressed in the proposed LUP amendment as submitted, and must be addressed in order to approve an amendment that is consistent with the Chapter 3 policies of the Coastal Act. The main issues addressed in the staff report are related to public access and recreation, specifically with regards to the size and location of the open space park, and the legal status of the pedestrian court and vehicular alleys that would bisect the residential development.

1. **Open Space Park/Land Use Priorities** While Mission Beach is bordered by regional parks and beaches, the community currently lacks any neighborhood open space. The current open space/playground area on the school site is

approximately 1.2 acres in size. While that area is currently fenced off due to the closure and sale of the school, the currently certified Mission Beach Precise Plan clearly called for the incorporation of open space into the developed portion of the community and identified the school playground for possible redevelopment into a landscaped park. While the proposed development retains some of the school site as “open space,” the amount – 0.201 acre – and design – a linear park along Mission Boulevard that is bisected by a vehicular alley and only 70 feet at its widest point – calls into question whether the proposed park would be an amenity to the public that would encourage recreation. Therefore, suggested modifications identify a larger, relocated park within the development site to provide more public open space that is more conveniently accessed. After a review of feasible alternate site plans, the suggested modification requires an open space park of no less than 0.32 acre in size, reconfigured in a rectangular shape and centrally located within the site along the proposed alignment of the Jersey Court extension. Due to location of the site in a popular coastal destination and its proximity to the coast, the Coastal Act prioritizes land uses such as park space suitable for recreational uses over private residential development, which the larger, reconfigured park satisfies.

2. **Public Access.** Mission Beach is a densely developed community located in close proximity to popular coastal destinations. The community is configured such that the alleys and pedestrian courts serve as the main east-west access routes for the public wishing to traverse the community between the ocean beaches and Mission Bay. In the remainder of Mission Beach, these courts and alleys are publicly dedicated right-of-ways, managed by the City. However, as proposed, the LUP amendment would include the pedestrian court and vehicular alleys within the lot boundaries of the proposed residences, with public easements. In addition to not being in character with the remainder of the public access in this popular coastal destination, the use of easements – maintained and administered by the future Home Owners Association (HOA) that would be established with the development – raises concerns of potential obstructions to future access, such as the erection of gates, placement of time or use restrictions, encroachment of private improvements into the easement, etc.

Historically, pedestrian accessways/sidewalks and roadways have been dedicated in fee to local jurisdictions and become public right-of-ways. These corridors are then maintained by the local government. However, recently, because of budget constraints facing many local jurisdictions, local governments have begun to entitle larger subdivision projects and allow “private” streets, with such areas then maintained by the future HOA. Local governments secure the public interests and use through recorded easements and other covenants. This may be acceptable in certain situations; however, in a dense and heavily impacted coastal community where public access is critical – such as Mission Beach – public ownership is a more direct way to secure access. With regards to the pedestrian path on Jersey Court, because that will be adjacent to the new open space park and has a greater chance of impediment to public access due to its smaller size and greater use in comparison to the alleys, the pedestrian path should be transferred over to the City

in fee to become a dedicated public right-of-way. Pedestrian courts should be seamless and treated uniformly throughout the community. Therefore, suggested modifications call for the pedestrian court to be made a fee-dedicated public right-of-way, with related map figures showing this right-of-way traversing the project site. This will satisfy the Coastal Act requirements that public access to the coast is provided and maximized in new development along the coast.

3. **Commercial Use** The Precise Plan designates Visitor and Community Commercial areas at various points within the community. Due to inadvertent errors, the updated land use map deletes or modifies the size of various commercial districts currently identified in the Precise Plan, including the San Diego Place District, the Ventura Place District, and the Santa Clara Place District. Because the local action and related legal findings did not address these land use changes, a suggested modification is required to correct the changes and restore the currently certified boundaries of the designated commercial districts in the amended land use map. This will satisfy the Coastal Act's requirements that visitor and recreational facilities be protected.

The appropriate resolutions and motions begin on Page 6. The suggested modifications begin on Page 8. The findings for denial of the Land Use Plan Amendment as submitted begin on Page 9. The findings for approval of the Land Use Plan Amendment if modified begin on page 15.

### **ADDITIONAL INFORMATION**

Further information on City of San Diego LCP Amendment No. LCP-6-MBE-16-0029-6 may be obtained from **Alexander Llerandi**, Coastal Analyst, at (619) 767-2370.

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### **EXHIBITS**

[Exhibit 1 – City Resolution](#)

[Exhibit 2 – LUP Amendment Proposal: Strikeout/Underline](#)

[Exhibit 3 – Modified LUP Figures](#)

[Exhibit 4 – Public Comment](#)

[Exhibit 5 – Applicant Response](#)

## **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.

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 the City is completing that planning; the Commission will consider those submittals 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, 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 became effective in January 2000.

The Mission Beach community is one of the City of San Diego's twelve LCP segments. The community, approximately 0.34 square miles in size, is located entirely within the Coastal Zone, and is bordered by the Pacific Ocean to the west, the San Diego River to the south, Mission Bay Park to the east, and Pacific Beach to the north. The existing community plan, the Mission Beach Precise Plan (Precise Plan), was adopted by the City in 1974. During the preparation of the Precise Plan, the State of California approved Proposition 20 in 1972. The goals and objectives of this initiative and resultant guidelines were incorporated into the Precise Plan as they became available prior to the Precise Plan's adoption in 1974. Subsequently, the California Coastal Act was approved by the state legislature in 1976, requiring local governments to prepare a Local Coastal Program. The City submitted the Precise Plan to the Coastal Commission in November 1979 for review and certification, as required by the Coastal Act. The Commission approved the Precise Plan with a Local Coastal Program Addendum in June 1982, certifying it as the Land Use Plan portion of the City's LCP for this planning segment.

The subject request is a project-driven amendment to the community plan addressing the site of the now-closed Mission Beach Elementary School. The proposed amendment would change the land use designation of the portion of the school property north of Santa Barbara Place from "School" to "Residential," with the sections of the Precise Plan addressing the school being deleted and the related figures showing current and proposed

land uses replaced with updated figures showing the proposed residential use and an open-space park area.

## **B. STANDARD OF REVIEW**

The standard of review for land use plans, and their amendments is found in Section 30512 of the Coastal Act. This section requires the Commission to certify an LUP or LUP amendment if it finds that it meets the requirements of Chapter 3 of the Coastal Act. Specifically, it states:

### Section 30512

(c) The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200). Except as provided in paragraph (1) of subdivision (a), a decision to certify shall require a majority vote of the appointed membership of the Commission.

## **C. PUBLIC PARTICIPATION**

Section 30503 of the Coastal Act requires local governments to provide the public with maximum opportunities to participate in the development of the LCP amendment prior to its submittal to the Commission for review. 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 AMENDMENT 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 move that the Commission certify the Land Use Plan Amendment No. LCP-6-MBE-16-0029-6 for the Mission Beach segment of the City of San Diego certified LCP as submitted.*

### **STAFF RECOMMENDATION OF DENIAL OF CERTIFICATION:**

Staff recommends a **NO** vote on the motion. Failure of this motion will result in denial of the land use plan amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

**RESOLUTION TO DENY CERTIFICATION OF LAND USE PLAN  
AMENDMENT AS SUBMITTED:**

The Commission hereby denies certification of the Land Use Plan Amendment No. LCP-6-MBE-16-0029-6 for the Mission Beach segment of the City of San Diego certified LCP as submitted and finds for the reasons discussed below that the submitted Land Use Plan Amendment fails to meet the requirements of and does not conform to the policies of Chapter 3 of the California Coastal Act. Certification of the plan would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures that would substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

**II. MOTION:**     *I move that the Commission certify the Land Use Plan Amendment No. LCP-6-MBE-16-0029-6 for the Mission Beach segment of the City of San Diego certified LCP if modified in accordance with the suggested changes set forth in the staff report.*

**STAFF RECOMMENDATION: CERTIFICATION IF MODIFIED AS  
SUGGESTED:**

Staff recommends a **YES** vote on the motion. Passage of the motion will result in certification with suggested modifications of the submitted land use plan amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

**RESOLUTION TO CERTIFY SUBMITTED LAND USE PLAN AMENDMENT IF  
MODIFIED AS SUGGESTED:**

Subject to the following modifications, the Commission hereby certifies the Land Use Plan Amendment No. LCP-6-MBE-16-0029-6 and finds for the reasons discussed herein that, if modified as suggested below, the submitted Land Use Plan Amendment will meet the requirements of and conform to the policies of Chapter 3 of the California Coastal Act. Certification of the plan if modified as suggested below 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 plan on the environment, or 2) there are no further feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

### **PART III. SUGGESTED MODIFICATIONS**

Staff recommends the following suggested revisions to the proposed Land Use Plan be adopted. The double underlined sections represent language that the Commission suggests be added, and the ~~bold struck-out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted. Modifications to the Figures are illustrated in the exhibits, as follows:

1. The proposed Figure entitled “Mission Beach Land Use Plan” shall be modified to revise the boundaries of various commercial districts within Mission Beach as follows: (1) the omitted “San Diego Place Commercial District” shall be designated by the placement of the “Neighborhood Commercial” designation on the properties between San Diego Place in the south and the vehicular alley situated between Anacapa Court and Allerton Court in the north and between Mission Boulevard in the west and the first vehicular alley to the east; (2) the “Ventura Place Commercial District” along the northern side of West Mission Bay Drive and Ventura Place shall be revised to show the properties adjacent to Mission Boulevard north and south of Island Court as “Residential;” (3) the “Santa Clara Commercial District” shall be revised to designate the properties west of Mission Boulevard between Mission Boulevard and Strandway and north of San Jose Place and south of the alley between Tangiers Court and Toulon Court as “Neighborhood Commercial” ([Exhibit 3](#)). This shall restore the commercial district boundaries consistent with the boundaries as previously certified in the LUP.
2. The proposed Figure entitled “Zoning” shall be modified to show the properties along the eastern side of Mission Boulevard between San Diego Place in the south and the vehicular alley situated between Anacapa Court and Allerton Court in the north and between Mission Boulevard in the west and the first vehicular alley to the east as being zoned as MCPD-NC-S ([Exhibit 3](#)). This shall restore the commercial district boundaries consistent with the boundaries as previously certified in the LUP.
3. The Figures entitled “Zoning” and “Mission Beach Land Use Plan” shall be modified to show public right-of-ways bisecting the school site along the east-west alignment of Jersey Court and the adjacent alleys to the north and south ([Exhibit 3](#)).
4. The Figure entitled “Mission Beach Land Use Plan” ([Exhibit 3](#)) shall be modified so that the language of the asterisk placed over the Mission Beach Elementary school site shall read:

“Proposed School to Residential & Parks/Open Space \*Park location shall be sited along the southern side of Jersey Court ~~may vary~~, a park of ~~0.21~~ 0.32 acres or larger shall be located on site.”

5. On Page 46, in the “Parks and Recreation” section, the language added by the City in the preamble shall be modified as follows:

“The development of the former Mission Beach Elementary School site at the northeast corner of Mission Boulevard and Santa Barbara Place includes a ~~population based~~ pocket park, approximately ~~0.201~~ 0.32 acres for passive recreational use.”

6. On Page 74 of the Mission Beach Precise Plan, the “Goals” of the “Pedestrian Movement” section shall be modified to include a new goal, which shall state”

- All pedestrian courts in the community shall be dedicated in fee to the City, be publicly maintained, and remain open to the public.

7. On Page 74 of the Mission Beach Precise Plan, the first paragraph of the “Pedestrian Way Proposals” section shall be modified as follows:

“Any public or private development in the future should necessarily preserve and enhance this unique system, especially the separation that exists between pedestrians and vehicles. This is best achieved through the continuation of the grid system utilized throughout Mission Beach and pedestrian courts shall be dedicated in fee to the City, be publicly maintained, and remain open to the public. Marked bikeways are necessary not only to accommodate and direct bike users but to provide a separation between these vehicles and pedestrians for safety reasons. The median in Mission Boulevard provides an island for pedestrian crossings. This median should continue as a pedestrian reservoir and, if possible, be widened in the future. In the event of future landscaping of the median, breaks should be left for pedestrians at each Court. Ocean Front Walk and Bayside Walk should both be widened in order to safely accommodate pedestrians and bicycles.”

#### **PART IV. FINDINGS FOR DENIAL OF CERTIFICATION OF THE CITY OF SAN DIEGO LAND USE PLAN AMENDMENT, AS SUBMITTED**

##### **A. AMENDMENT DESCRIPTION**

The subject submittal consists of an amendment to the Mission Beach Precise Plan, the certified Land Use Plan (LUP) for the Mission Beach community in the City of San Diego, with the primary change consisting of a land use change to re-designate the site of the now-closed Mission Beach Elementary School from “School” to “Residential,” designating a portion of the site for an open space public park, and the related deletion of the “Schools” section of the LUP and updating of land use figures. The submittal also contains alterations to the boundaries of several commercial districts within the community and are highlighted on [Exhibit 3](#).

##### **B. CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT**

The Commission finds, pursuant to Section 30512.2b of the Coastal Act, that portions of the Land Use Plan as set forth in the preceding resolutions, are not in conformance with

the policies and requirements of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act which states:

The legislature further finds and declares that the basic goals of the state for the Coastal Zone are to:

- a) Protect, maintain and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and manmade resources.
- b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.
- c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights or private property owners.
- (d) Assure priority for coastal-dependent and coastal-related development over other development on the coast.
- (e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

The Commission therefore finds, for the specific reasons detailed below, that the land use plan does not conform to Chapter 3 of the Coastal Act or the goals of the state for the coastal zone with regards to public access and recreation.

### **C. NONCONFORMITY OF THE CITY OF SAN DIEGO LAND USE PLAN AMENDMENT WITH CHAPTER 3**

#### **1. Public Access**

##### **a. Plan Summary**

The proposed project-driven LUP amendment to change the designation of the site from “School” to “Residential” and require an open space park of 0.21-acre or larger is in order to facilitate the subsequent Mission Beach Residences development. The LUP amendment would allow any new vehicular alleys or pedestrian court to be retained in private ownership rather than being dedicated in fee to the City.

##### **b. Applicable Coastal Act Policies**

###### Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and

recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

#### Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

#### Section 30212

- (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

[...]

### **c. Conformity with Chapter 3 Policies**

Mission Beach, located on a narrow peninsula between the Pacific Ocean and Mission Bay, is the most densely developed community in the City of San Diego, at approximately 36 dwelling units per acre. The community is organized in a grid system established near the turn of the 20<sup>th</sup> century when the Belmont Park area and first residences were developed. This grid alternated between pedestrian courts and vehicular alleys along the length of the community, and provides the main breaks between the existing structures due to the small lot sizes and small front yards that characterize development in this area.

Due to its location, Mission Beach is a popular coastal destination during the weekend and summer periods, when the community's single main road – Mission Boulevard – and side streets and alleys experience high demand from vehicles seeking parking and pedestrians and bicyclists going to the shore. Because of the compact nature of the community, the east-west alleys and pedestrian courts serve as the primary method by which visitors and residents are able to circulate through the neighborhood.

The 1.8-acre segment of the Mission Beach Elementary School north of Santa Barbara Place is a single unified parcel that is designated as "School" in the certified LUP. Due to the presence of the school, which is fenced off from the surrounding streets, there was no public vehicular or pedestrian access across the site during its operation, and no public

access paths are shown traversing the site in the various figures of the LUP. The school site represents the largest stretch of Mission Beach lacking public accessways across it.

The demolition of the school site and construction of a new multi-unit residential development – the Mission Beach Residences – with two new east-west vehicular alleys and a new pedestrian court presents an unique opportunity to address this gap in public access and incorporate the site into the grid system of public sidewalks and alleys that covers the rest of Mission Beach. However, as locally approved and recorded on submitted land use and zoning figures, the re-designation of the Mission Beach Elementary School site from “School” to “Residential” does not show public accessways traversing the site, but instead continues to show the site as a single unified parcel.

This is due to the fact that the two new vehicular alleys and the pedestrian court are proposed to be public easements, with the underlying land owned in fee by the neighboring residences, rather than dedicated in fee as public right-of-way. This is a marked contrast to the rest of Mission Beach, where the alleys and courts are owned, controlled, and maintained by the City of San Diego. The City found that the recordation of the alley and pedestrian easements against the properties and within the HOA’s CC&Rs would be sufficient to ensure proper notice to the neighboring property owners of the public’s right to use the alleys and courts.

However, while the Commission has approved public easements as part of other developments, past experience has shown that when the public’s ability to traverse an area is dependent on an easement, as opposed to a fee-dedicated public right-of-way, the risk that an impediment to public access will arise is likely to be higher. Because the property underlying an easement is owned by a private entity, members of the public may be unsure as to the extent of their right to use the easement. It is unlikely that a member of the public will know the content of the easement and its related rights and responsibilities, and when faced with a neighboring property owner challenging their use of the easement, the member of the public will be dissuaded from continued use. Relatedly, a neighboring property owner, potentially dissatisfied with the effects of the public’s use of the easement, may feel entitled to place impediments to the public’s use and attempt to regulate it to their liking, such as through the installation of gates or signage listing time or use restrictions.

While the anticipated residential development will provide two new vehicular alleys and a new pedestrian path where before there were none, and the City believes in good faith that the public access easements will be sufficient to guarantee the public’s right to traverse the project site, the Coastal Act requires that public access be maximized. Maximization of public access refers to not just the quantity of public accessways, but the quality of them as well, such as the legal status and protections related to them. A public accessway in the public right-of-way, with the local government as the holder in fee of the underlying land, has less likelihood of a neighboring property asserting alleged rights over the accessway and erecting impediments to public access. Because this school site will be completely demolished and its land use re-designated, it represents a fresh opportunity, unaffected by existing development, to maximize public access in line with

the rest of the community by first establishing public right-of-ways and then allowing any subsequent private development to be designed around it accordingly.

No policy language was developed to protect public access across the school site once its land use designation changes; therefore, public access has not been maximized. Thus, the land use plan amendment as approved and submitted by the City is inadequate to conform to the public access policies of Chapter 3 of the Coastal Act, and must be denied.

## **2. Recreation/Land Use Priority**

### **a. Plan Summary**

As submitted by the City, the proposed LUP amendment would require that a public park of 0.21-acre or greater be provided somewhere within the subject site.

### **b. Applicable Coastal Act Policies**

#### Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

#### Section 30212.5

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

#### Section 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

### **c. Conformity with Chapter 3 Policies**

As submitted by the City of San Diego, the proposed LUP amendment requires that “a park of 0.21 acres or larger shall be located on the site.” The City ascertained this minimum standard by applying the population-based park formula contained in the City’s General Plan. However, the City’s General Plan is not part of the City’s certified Local Coastal Program (LCP); and, as such, Chapter 3 of the Coastal Act is the standard of

review. In reviewing the submitted park design in light of the standards of Chapter 3, the submitted park design is not adequate to meet the applicable recreation and public access policies.

Mission Beach is the most densely developed community in the City of San Diego, with very little green space within the community's boundaries. What park space does exist around the community's periphery constitutes parts of Mission Bay Park or the Belmont Park area, which are regional parks that experience high visitor demands during the weekends and summer months. There is only a minimum amount of landscaped park in the community, and almost all recreational facilities in Mission Beach are intended for use primarily by the weekend and summer visitors, and secondarily by community residents. While small landscaped areas can be provided on a lot-by-lot basis as individual properties redevelop, the subject school site represents the greatest, and last, opportunity for a public park development of this size to occur in Mission Beach. The current school site provides an approximately 1.2-acre open space area which the currently certified LUP established as a potential future open space area for the community to use during non-school hours and the weekend. While the school was not able to provide that amenity prior to its closure, the demolition of the school and re-designation of the land use represents the best opportunity to provide such a recreational asset.

The 0.21-acre park area called for in the City's proposed amendment is inadequate in both size and delineation. With a triangular shape bisected by both a pedestrian walkway and a vehicular alley, the amount of reasonably usable space by the public is less than 0.21-acre. Furthermore, the presence of the vehicular alley represents a safety concern, as the anticipated Mission Beach Residences development to be built on the site received a variance from the City from regulations requiring view triangles at the intersection, increasing the risk of a vehicle not seeing a park user.

As stated above, Mission Beach is a densely developed community located on a narrow peninsula that experiences high visitor volume. As such, Mission Boulevard, the main north-south vehicular corridor, experiences high traffic loads during the weekends and summer months, in addition to traditional rush hour traffic in the mornings and evenings. Given this traffic, it is likely that the park experience in the narrow, triangular design proposed to be utilized will lead to a degraded park experience due to noise and emissions from the vehicles, discouraging use by the public. Finally, the narrow design of the park could create the appearance more of a privatized vegetated buffer than a public open space, as the neighboring 30-ft. tall residences proposed to be constructed adjacent to the park area, with just five-foot side yards, will tower over the park area and look directly down onto it. The shape, small size, and safety concern reduce the likelihood that area residents will enjoy the space and rely on it for convenient recreation.

Section 30222 of the Coastal Act has a clear policy directive prioritizing the use of private lands for visitor serving recreational facilities designed to enhance coastal recreational opportunities for the public. With a subject site 1.88-acre in size, the proposed land use re-designation presents an opportunity to require a sizeable open-space public park in a community that currently has no other acreage of community park space

within it. However, as proposed, the 0.21-acre park fails to maximize access and recreational opportunities for area residents, and they are less likely to use and enjoy the park.

As proposed, the size, design, or location of the park called for in the City's proposed amendment would not provide the needed public recreational asset. Therefore, the land use plan amendment as approved and submitted by the City is inadequate to conform to the public access and recreation policies of Chapter 3 of the Coastal Act, and must be denied.

### **3. Commercial Districts**

#### **a. Plan Summary and Conformance with Chapter 3 Policies**

The proposed amendment as submitted contains Figures entitled "Zoning" and "Mission Beach Land Use Plan." Both figures alter the delineation of the Santa Clara Commercial District and Ventura Commercial District by making them smaller or larger, respectively, than what is currently in the certified LUP. In the case of the San Diego Place Commercial District, the District is deleted entirely. Upon having the alterations identified by Commission staff, the City indicated that the alterations were unintentional, likely the product of an oversight when producing the Figures, and not requested by the City. Because the City did not process the alterations to the commercial district boundaries through the local hearing process and Council action, they were not part of the City's approved resolution for the proposed amendment, and the land use re-designation must be rejected.

## **PART V. FINDINGS FOR APPROVAL OF THE CITY OF SAN DIEGO'S LAND USE PLAN, IF MODIFIED**

### **A. SUMMARY FINDING/CONFORMANCE WITH SECTION 3001.5 OF THE COASTAL ACT**

The Commission finds, pursuant to Section 30512.2b of the Coastal Act, that the Land Use Plan as set modified in the preceding resolutions, is in conformance with the policies and requirements of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act, cited above.

The Commission therefore finds, for the specific reasons detailed below, that the land use plan, as modified herein, does conform to Chapter 3 of the Coastal Act or the goals of the state for the coastal zone with regards to public access and recreation.

### **B. SPECIFIC FINDINGS FOR APPROVAL**

#### **1. Public Access**

The LUP amendment, as modified, will contain provisions that the one new pedestrian court anticipated to traverse the school site would become a fee dedicated public right-of-

way, with the land underlying it transferred in fee to the City for its ownership and maintenance. This would bring the pedestrian court into conformance with the rest of the public access system in the remainder of Mission Beach and ensure the greatest legal protection against the likelihood of impediments to public access being sought by the neighboring property owners. With the pedestrian court held by the City, the public will not need to be aware of the rights and responsibilities of an easement, but rather will be able to confidently and conveniently utilize the accessways in the same manner as the remainder of Mission Beach.

Thus, as modified, the placement of the pedestrian court under public ownership as a fee-dedicated public right-of-way would maximize public access by ensuring public ownership of the pedestrian corridors, and minimize the interference that private development might have on the public's ability to access the nearby coast. As modified herein, the proposed amendment can be found in conformance with the public access policies of Chapter 3 of the Coastal Act.

## **2. Recreation**

As originally submitted by the City, the re-designation of the site from "School" to "Residential" would also incorporate a public park on at least 0.21-acre in size, and while its location would be undetermined in the LUP, the subsequent residential development proposed to place the park along Mission Boulevard along the western site boundary. Due to concerns regarding the usability of the park's size and design and the impacts from its location abutting the busy Mission Boulevard corridor, the City and property owner met with Commission staff to discuss potential alternatives to address the concerns and provide a more usable park space. The discussions led to an alternate park design of larger size – .032-acre versus 0.21-acre – and more utilitarian design – a rectangle not bisected by an alley versus a linear park bisected by an alley. The redesigned park's location was also modified so that it was located more centrally in the site, with more of its square footage set back from Mission Boulevard and increasing the distance from traffic.

With these changes, the park is much more likely to function as a community open space suitable for a variety of passive recreational activities, such as public gatherings, recreational sport activities, and relaxation. With the park still being located on Mission Boulevard, it will be visible to the passing public and its location adjacent to the new pedestrian court – to become Jersey Court – will open up public views across the site toward Mission Bay and encourage public access through the site.

While members of the public have submitted information regarding matters not currently before the Commission and better suited for when the appeals of the local CDPs are presented at a hearing, in regards to the park size and location, some members of the local community are opposed to both the original linear park design and the updated rectangular park design; arguing that the City should have looked at both the parcels north and south of Santa Barbara Place when applying the General Plan's population-based park requirement, which would have required a 0.34-acre park be provided ([Exhibit 4](#)). Furthermore, these same members have advocated for the placement of the

park on the parcel south of Santa Barbara Place, as that happens to be 0.34-acre in size and contain a ficus tree that they wish to preserve. The members have argued that Mission Beach Elementary School utilized structures both north and south of Santa Barbara Place and that because the structures south of Santa Barbara Place are also going to be demolished, the park can be placed there.

However, what is before the Commission is an amendment to the certified LUP so as to change the land use designation of the northern campus of the school from “School” to “Residential.” In the certified LUP, only the 1.88-acre segment of the school north of Santa Barbara Place is designated as “School,” not the 0.34-acre segment south of Santa Barbara Place, which has been designated as “Residential” since the LUP’s original certification in the early 1980’s. Thus, while there are currently structures located south of Santa Barbara Place that operated as part of Mission Beach Elementary School in the past, the underlying land use was never designated as “School.” This proposed LUP amendment and related Commission action is addressing only the school campus north of Santa Barbara Place. Subsequently, the residential development was approved locally as two separate CDPs – one for north of Santa Barbara Place and one for south of Santa Barbara Place – both of which have been appealed to the Commission and will be heard at a later hearing.

Thus, as modified, the LUP amendment now establishes a more functional and meaningful public park and thus prioritizes park and recreation uses over private residential development. The modified LUP amendment achieves this by modifying the land use figures to require a park of at least 0.32-acre in size that is located adjacent to the forthcoming extension of Jersey Court, across the school site. Thus, the proposed amendment will provide a usable community open space that also encourages public access to the coast, and the amendment can be found in conformance with Chapter 3 of the Coastal Act.

### **3. Commercial Districts**

As stated above, the amendment submitted by the City of San Diego contained multiple alterations to the boundaries of various commercial districts: Santa Clara Place, Ventura Place, and San Diego Place. Because the City did not desire for these changes to be made and did not process them through the local review process, their inclusion in the figures of the submitted amendment was unintentional. After discussing the matter with the City, it was agreed that the most direct method of rectifying the situation was to modify the proposed amendment so as to have the new figures therein reflect the commercial district boundaries as they are currently shown in the certified LUP (i.e. Santa Clara Commercial District increased in size, Ventura Place Commercial District decreased in size, and San Diego Place Commercial District restored). Thus, as modified, the proposed amendment can be found in conformance with the requirements of the Coastal Act.

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

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. Instead, the Coastal Commission acts as lead agency for the purposes of fulfilling CEQA. 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 submission. Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform to CEQA provisions.

The City adopted a Master Environmental Impact Report (MEIR) for the residential development – Mission Beach Residences and Santa Barbara Place Residences – that the City has already approved separately under two local CDPs. The MEIR found that the residential development would be able to mitigate potentially significant impacts related to operation noise, health and safety, historical resources, transportation, and land use to less than a level of significance but would have unavoidable impacts related to construction noise during the construction of the residential development.

As described above, the Commission has reviewed and evaluated the proposed amendment, and finds that the potential coastal resource impacts have been mitigated, and that the amendment does not have the potential to result in significant individual or cumulative impacts to public access or recreation. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effects which the amendment may have on the environment. The Commission therefore finds the amendment is consistent with the California Environmental Quality Act.