

CALIFORNIA COASTAL COMMISSION

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September 27, 2004

Fri 10b**TO: COMMISSIONERS AND INTERESTED PERSONS**

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

**SUBJECT: STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR
AMENDMENT NO. LCPA 3-03B (Crescent Heights)**

SYNOPSIS**SUMMARY OF AMENDMENT REQUEST**

The City of San Diego is requesting to amend both the certified North City LCP Land Use Plan (LUP) segment (Mira Mesa subarea) and the certified LCP Implementation Plan (IP). The proposed LCP amendment would change the current boundaries between the residential and open space land use designations on a 185 acre site known as Crescent Heights. The site affected by the proposed amendment consists of nine non-contiguous parcels including steep hillsides, canyons and mesa tops along both the north and south sides of Lopez Canyon, and along the south side of Los Penasquitos Canyon.

In addition, the amendment would change the policies that currently prohibit grading beyond the rim of Los Penasquitos Canyon Preserve to allow encroachment beyond the canyon rim if the development meets certain criteria. Current language which references the R-1-5000 and R-1-10,000 zones as the appropriate zones to implement the low and very low residential density land use designation allowing 4-8 and 0-4 dwelling units per acre (dua) respectively on the subject site would also be modified to remove references to those specific zones.

Also proposed is an Implementation Plan (IP) amendment to rezone all the lots, which are currently all zoned AR-1-1, formerly called the A-1-10 Zone, a very low density holding zone requiring minimum 10-acre lots. All proposed permanent open space would be rezoned to OC-1-1, the City's most restrictive open space zone. Areas to be developed with single-family residential use on the Crescent Heights property will be rezoned to RX-1-2 (minimum 3,000 sq.ft. lots, or 14.1 dwelling units per acre [dua]), and all areas proposed for multi-family development will be rezoned to RM-2-5 (maximum density one dwelling unit per 1,500 sq.ft., or 29 dua). The properties to be developed generally surround the intersection of Camino Santa Fe and Calle Cristobal, in the Mira Mesa Community of the North City LCP segment.

The City of San Diego has approved a coastal development permit for a Planned Residential Development called Crescent Heights in association with the proposed LUP amendment. The LUP revisions would accommodate the residential development as approved by the City to be clustered on three existing legal lots on the mesa top at a concentration higher than the suggested implementing zones identified in the currently-certified LUP would typically allow. The City-approved development would also require grading beyond the canyon rim, a project component that requires a change to the current LUP policies, which currently prohibit such encroachments into the canyon. The remainder of the lots, most of which have portions currently designated for residential development, would be re-designated as open space. All but one of the open space lots are located east/southeast of the residential development site, along the north and south rims of Lopez Canyon and within the canyon, with the remaining parcel located north/northeast of the developable areas within Los Penasquitos Canyon. In all, six of the nine legal lots are proposed to be retained as open space, and the remaining three are proposed to accommodate single- and multi-family development on portions of the lots, with the remainder preserved as open space.

This request, LCPA 3-03B, is part of LCP amendment package No. 3-03. The remainder of the package that has not already been processed by the Commission addresses an adjacent, 37.5-acre site (Sunset Pointe) and will come to the Commission in the future as LCPA 3-03C. A time extension for up to one year for Commission action on LCPA #1-04B and LCPA #1-04D is required by the Commission; the motion for the time extension is on page 8 of this staff report. LCPA 3-03A, an IP change that addressed companion units, was acted on by the Commission in November, 2003. In addition to the LCP amendment, portions of some of the affected lots are in an area of deferred certification, where the Commission retains permit authority at this time. The corresponding coastal development permit applications are currently undergoing staff analysis, although they are incomplete and not yet filed. The Coastal Commission will review these proposed subdivisions at a later date.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending denial of the LUP and IP amendments as submitted, and approval with suggested modifications that would change the City's submittal in several ways. First, the suggested modifications would require revisions to the proposed open space/MHPA boundary to ensure that no lands that contain Tier I or Tier II habitat, which, in this particular case, correspond to lands containing coastal sage scrub habitat or ESHA, are removed from the MHPA. In addition, through the Commission's suggested changes, the open space/MHPA line would be revised to include the steep slopes that contain coastal sage scrub located below the rim of the canyon where those areas are not currently included in the MHPA.

Second, the proposed LCP amendment would allow grading below the rim of the canyon under certain enumerated conditions. Staff's proposed suggested modifications would limit significantly this exception to the existing prohibition, only allowing such grading to construct an access road to the residentially designated mesa top on the western portion of the Crescent Heights property. The encroachment to access the flatter, less sensitive

area would be required to be the minimum amount possible and fully mitigated. In addition, the area required for the access road would not be removed from the open space zone or MHPA. Instead, the road would be specifically addressed in the Land Use Plan as an allowable impact to ESHA providing that all the other elements of the proposal, including but not limited to, retiring the development potential on six otherwise developable parcels, are satisfied. With the suggested modifications identifying site specific criteria as standards for a single, comprehensive development plan, covering nine, non-contiguous lots under one ownership, known as Crescent Heights, the Commission's action would not set an adverse precedent that would allow grading beyond the canyon rim or impacts to ESHA for any other development proposal in the Mira Mesa community. This approach limits the exception to a site specific proposal in which the impact to ESHA is balanced against multiple benefits, so that the proposal as a whole is most protective of significant coastal resources.

The appropriate resolutions and motions begin on page 6. Suggested Modifications begin on page 9. The findings for denial of the LUP amendments begin on page 12. The findings for approval of the LUP amendments with suggested modifications begin on page 26. The findings for denial of the IP amendments begin on page 30. The findings for approval of the IP amendments with suggested modifications begin on page 36.

BACKGROUND

For purposes of developing an LCP, the City of San Diego's coastal zone was divided into twelve segments, each with their own land use plan. In the case of the North City LCP segment, the area included several distinct communities that were in various stages of planning and buildout. Mira Mesa, where this site is located, is one of the "subareas," along with Carmel Valley, Sorrento Hills, Torrey Pines, University, Via de la Valle, and the North City Future Urbanizing Area. 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.

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. One remaining area of deferred certification is the Los Penasquitos Canyon Preserve, which encompasses both Penasquitos and Lopez canyons. This is identified in the Commission's certification action in 1988 in narrative form only, with no accompanying map. However, the Preserve planning area encompasses both the streambeds and canyon walls. Therefore, both the City and the Commission have acted

for the past 16 years on the understanding that the area of deferred certification includes everything below the rim of the canyons, with only the mesa tops in the City's coastal development permit jurisdiction.

ADDITIONAL INFORMATION

Further information on the City of San Diego LCP Amendment No. 3-03B (Crescent Heights) 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. Since 1988, a number of community plans (LUP segments) have been updated and certified by the Commission.

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

The standard of review for land use plans, or 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 and conforms with 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.

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.

In those cases when a local government approves implementing ordinances in association with a land use plan amendment and both are submitted to the Commission for

certification as part of one LCP amendment, pursuant to Section 13542(c) of the Commission's regulations, the standard of review of the implementing actions shall be the land use plan most recently certified by the Commission. Thus, if the land use plan is conditionally certified subject to local government acceptance of the suggested modifications, the standard of review shall be the conditionally certified land use plan.

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. Denial as Submitted

MOTION: *I move that the Commission certify Land Use Plan Amendment No. 3-03B as submitted by the City of San Diego (Crescent Heights).*

STAFF RECOMMENDATION TO DENY:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the 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:

The Commission hereby denies certification of the Land Use Plan Amendment No. 3-03B) as submitted by the City of San Diego (Crescent Heights) and adopts the findings set forth below on the grounds that the amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

II. Approval with Suggested Modifications

MOTION: *I move that the Commission certify Land Use Plan Amendment No. 3-03B) for the City of San Diego (Crescent Heights) if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

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

RESOLUTION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Land Use Plan Amendment No. 3-03B for the City of San Diego (Crescent Heights) if modified as suggested and adopts the findings set forth below on the grounds that the Land Use Plan amendment with suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan 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 plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment.

III. Rejection as submitted

MOTION III: *I move that the Commission reject the Implementation Program Amendment No. 3-03B for City of San Diego (Crescent Heights) 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. 3-03B as submitted by the City of San Diego (Crescent Heights) and adopts the findings set forth below on grounds that the Implementation Program as submitted does not meet the requirements of and is not in conformity with the policies of Chapter 3 of the Coastal Act. 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.

IV. Approval if Modified

MOTION IV: *I move that the Commission certify the Implementation Program Amendment No. 3-03B for the City of San Diego (Crescent Heights) 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 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 WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Implementation Program for City of San Diego LCPA No. 3-03B (Crescent Heights) if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the Implementation Program 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 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.

V. Time Extension

MOTION V:

I move that the Commission extend the 90-day time limit to act on the City of San Diego LCP Amendment No. 3-03C (Sunset Pointe) for a period not to exceed one year.

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. An affirmative vote of the majority of the Commissioners present is needed to pass the motion.

PART III. SUGGESTED MODIFICATIONS

Note: These revisions show changes the Commission is suggesting to the LCP as it is proposed to be amended. For a complete listing of the City's proposed changes, see pages 13-14, below.

1. Revise the proposed Figure 1 (Land Use Map), Figure 6 (Designated Open Space System), Figure 7 (Recommended Trail System), Figure 8 (Recommended Wildlife Corridors) and Figure 18 (Recommended Residential Densities) to conform to the revised boundaries between open space and residential developable area as shown on Exhibit 4.
2. Revise Zoning Map C-917 Attachment to Ordinance Number 0-19199 (new series) to conform to the revised boundaries between open space and residential developable area as shown on Exhibit 4.
3. On Page 77 of the certified Mira Mesa Community Plan, revise portions of the "Very Low Density: 0-4 dwelling units per acre" description as follows:

... Design flexibility on these hillside parcels is necessary to integrate development with the natural environment, preserve and enhance views, and protect areas of unique topography and vegetation. Especially when clustering is used on ridgetop and hillside parcels, appropriate zoning should be applied to the developable area which matches the development intensity, design criteria, housing type, and development footprint (based on on-site and adjacent resources) most suitable for each site, with open space zoning applied to the associated open space areas. The maximum ...

4. On Page 80 of the certified Mira Mesa Community Plan, add the following section under Site Specific Proposals:

d. **Crescent Heights.** Approximately 185 acres in nine lots (Pardee Homes) located to the west and east of Camino Santa Fe, south and north of Calle Cristobal are proposed for a mix of residential housing types including both single- and multi-family units, and open space. The following development criteria shall apply:

1. A maximum of 250 residential units clustered on 3 lots located north and south of the intersection of Calle Cristobal and Camino Santa Fe, with the development potential on the remainder lots retired as open space and MHPA lands. The extinguishment of development rights shall occur at the time of recordation of the final map for any subdivision proposed on this site.

2. All MHPA lands on the three legal lots to be developed shall be preserved through open space deed restrictions or conveyances, and all such areas shall be zoned as OC (open space conservation).

3. Downstream sensitive resources, particularly the remaining populations of the endangered Monardella, shall be protected from the effects of runoff through appropriate on-site detention facilities.

4. All on-site vernal pools and their watersheds shall be avoided; and, a minimum buffer from the protected area shall include the entire watershed of each pool and a minimum 100 ft. buffer from each individual vernal pool. The vernal pool area shall be included in the MHPA and zoned OC (Open Space Conservation).

5. Locating homes in an area that will require grading over the rim of the Los Penasquitos Canyon Preserve to accommodate the units or to create access to those residential units is prohibited. Zone 1 brush management (min. 50 feet width) also cannot extend over the rim in support of the units. An exception may be allowed only in the Multi-Family West Development under all of the following specific circumstances:

a. Such grading on the Multi-family West development is the only means to access flatter, less sensitive portions of the site which shall be determined through review of a comprehensive alternatives analysis.

b. Required grading avoids impacts to steep hillsides and sensitive biological resources to the maximum extent possible and such impacts are mitigated in accordance with the Biology Guidelines contained in the Land Development Manual.

c. Flexibility in road design is achieved through use of retaining walls, minimum road width, or other appropriate methods to reduce impacts to steep hillsides and sensitive biological resources to the maximum extent possible.

5. Revise the existing and proposed Development Criteria commencing on Page 107 of the certified Mira Mesa Community Plan, as follows. Underline is new language suggested by the Commission/Strike-out is language proposed by the City that the Commission is rejecting:

1. Grading over the rim of Los Penasquitos Canyon shall not be permitted except as may be allowed through application of site-specific policies commencing on Page 80 of this plan. ~~in #12 below...~~

8. Landscaping adjacent to Los Penasquitos, Lopez, Carroll, or Rattlesnake canyons shall be predominantly native species and non-invasive ...

6. Paragraph 12, as proposed by the City, referenced on Page 107 and to be located on Page 108 of the certified Mira Mesa Community Plan, shall be deleted in its entirety, as follows:

~~12. Development beyond the rim of Los Penasquitos Canyon and/or Lopez Canyon may only be permitted when the proposed development results in an environmentally superior project. An environmentally superior project shall meet the following criteria:~~

- ~~a) The disturbed area for the proposed development is the minimum necessary to allow appropriate development consistent with this plan while implementing an environmentally sensitive alternative. The proposed disturbed area should be sited to cluster development within/adjacent to existing disturbed areas and/or adjacent to existing development.~~
- ~~b) The impervious areas for the proposed development (e.g. building footprint, driveways, roads and sidewalks) are the minimum necessary to allow appropriate development consistent with this plan.~~
- ~~c) The proposed development must result in a new increase in the preservation of Tier I habitat and avoid all impacts to wetlands, including vernal pools and their watersheds, and provide adequate buffers to resources consistent with the Environmentally Sensitive Lands regulations contained in the City of San Diego Land Development Code and the Biology Guidelines.~~
- ~~d) The proposed development must maintain or improve overall habitat value and wildlife movement/corridors.~~
- ~~e) Slopes encroaching into the canyon must be blended into the natural topography with contour grading and be revegetated with native plants, including the planting of native species from areas proposed for disturbance.~~
- ~~f) The proposed development must be consistent with the City of San Diego MSCP Subarea Plan.~~
- ~~g) The site design must not exacerbate erosion/siltation in the watershed and Lopez Canyon by using sensitive grading techniques and best management practices (BMPs). No detention basins shall be located within the MHPA and all facilities must be designed/sited to minimize impacts to open space.~~
- ~~h) The project must be sited and designed not to significantly impact views from designated open space areas, including trails.~~

~~Any development consistent with this section that results in structures being visible from the floor of Lopez Canyon, or encroaches into Plan-designated open space shall require an amendment to the Community Plan.~~

PART IV. FINDINGS FOR DENIAL OF CERTIFICATION OF THE LCP LAND USE PLAN AMENDMENT, AS SUBMITTED**A. AMENDMENT DESCRIPTION**

The City of San Diego is requesting to amend the certified North City LCP Land Use Plan (Mira Mesa subarea) in two ways. First, the amendment would change the policies that currently prohibit grading beyond the rim of Los Penasquitos Canyon Preserve to allow encroachment beyond the canyon rim if the development meets certain criteria. Current language which references the R-1-5000 and R-1-10,000 zones as the appropriate zones to implement the very low residential density land use designation allowing 0-4 dwelling units per acre (dua) would also be modified.

Second, the amendment would change the current boundaries between the residential and open space land use designations on a 185 acre site known as Crescent Heights. The site affected by the proposed amendment consists of nine non-contiguous legal lots including steep hillsides, canyons and mesa tops along both the north and south sides of Lopez Canyon, and along the south side of Los Penasquitos Canyon.

The City of San Diego has approved a coastal development permit for a Planned Residential Development (PRD) called Crescent Heights in association with the proposed LUP amendment. The proposed LUP revisions would accommodate the residential development as approved by the City to be clustered on parts of three mesa top parcels at a density higher than the R1-10,000 zone identified in the certified LUP would allow. The approved development would also require grading beyond the canyon rim, which requires a change to the current LUP policies. The residential sites are located to the west and east of Camino Santa Fe, south and north of Calle Cristobal in the Mira Mesa community of North City. The other six parcels, all but one of which have portions currently designated for residential development, would be designated as open space. The open space parcels are located to the east of the residential development site, along the north and south rims of the canyon. Six of the nine parcels are proposed to be retained as open space, and the remaining three are proposed to accommodate single- and multi-family development.

Also proposed is an Implementation Plan amendment to rezone all the parcels, which are currently all zoned AR-1-1 (formerly A-1-10), a very low density holding zone requiring minimum 10-acre lots. The Implementation Plan amendment will be discussed in detail later in this report. However, in summary, all proposed permanent open space would be rezoned to OC-1-1, the City's most restrictive open space zone. Areas to be developed with single-family residential use would be rezoned to RX-1-2 and areas proposed for multi-family development will be rezoned to RM-2-5. Such zones would accommodate the development approved by the City which includes 98 single family units at 14.1 dua and 144 multi-family units at 29 dua.

In addition to the LCP amendment request, an associated coastal development permit application is undergoing staff analysis at this time for specific development of this site that has already been approved at the local level. The Coastal Commission will review the proposed subdivision, and portions of the proposed residential development, which are located in areas of deferred certification, at a later date.

B. NONCONFORMITY OF THE LAND USE PLAN AMENDMENT WITH CHAPTER 3 POLICIES OF THE COASTAL ACT

The City of San Diego is requesting to amend the certified Mira Mesa LUP policies addressing development adjacent to canyons. The amendment will also modify several maps to refine the line between designated residential and open space on an approximately 185-acre total property, located on nine non-contiguous parcels. Specific lot by lot information describing each lot is given in the subsequent finding addressing land use. This area of Mira Mesa consists primarily of flat mesas several hundred feet in elevation that abruptly drop off into deep canyons. The canyons were formed by streams that were once intermittent but that now, because of upstream development, run most of the year. The canyon walls are vegetated with a number of different native plant communities, with small areas of disturbance and/or exotic plants also present.

The specific policies the amendment proposes to modify are those addressing appropriate densities for new development, and an existing prohibition on grading over the rim of Los Penasquitos Canyon Preserve. The proposed changes would occur on Pages 39, 77, 107 and 108 of the certified Mira Mesa Community Plan, and are shown below:

Page 39: ~~Retain A-1-10 zoning on areas designated~~ Rezone open space areas to a zone appropriate for open space preservation.

Page 77: ... Design flexibility on these hillside parcels is necessary to integrate development with the natural environment, preserve and enhance views, and protect areas of unique topography and vegetation. Especially when clustering is used on ridgetop and hillside parcels, appropriate zoning should be applied to the developable area which matches the development intensity, with open space zoning applied to the associated open space areas. ~~The R1-10,000 Zone or the R1-5000 Zone if units are clustered to preserve natural open space areas, are proposed to implement this designation.~~ The maximum ...

Page 107: 1. Grading over the rim of Los Penasquitos Canyon shall not be permitted except as may be allowed in #12 below.

Page 108: 12. Development beyond the rim of Los Penasquitos Canyon and/or Lopez Canyon may only be permitted when the proposed development results in an environmentally superior project. An environmentally superior project shall meet the following criteria:

- a) The disturbed area for the proposed development is the minimum necessary to allow appropriate development consistent with this plan

while implementing an environmentally sensitive alternative. The proposed disturbed area should be sited to cluster development within/adjacent to existing disturbed areas and/or adjacent to existing development.

b) The impervious areas for the proposed development (e.g. building footprint, driveways, roads and sidewalks) are the minimum necessary to allow appropriate development consistent with this plan.

c) The proposed development must result in a new increase in the preservation of Tier I habitat and avoid all impacts to wetlands, including vernal pools and their watersheds, and provide adequate buffers to resources consistent with the Environmentally Sensitive Lands regulations contained in the City of San Diego Land Development Code and the Biology Guidelines.

d) The proposed development must maintain or improve overall habitat value and wildlife movement/corridors.

e) Slopes encroaching into the canyon must be blended into the natural topography with contour grading and be revegetated with native plants, including the planting of native species from areas proposed for disturbance.

f) The proposed development must be consistent with the City of San Diego MSCP Subarea Plan.

g) The site design must not exacerbate erosion/siltation in the watershed and Lopez Canyon by using sensitive grading techniques and best management practices (BMPs). No detention basins shall be located within the MHPA and all facilities must be designed/sited to minimize impacts to open space.

h) The project must be sited and designed not to significantly impact views from designated open space areas, including trails.

Any development consistent with this section that results in structures being visible from the floor of Lopez Canyon, or encroaches into Plan-designated open space shall require an amendment to the Community Plan.

These changes would result in significant modification to the current development pattern in this area of Mira Mesa, a part of the North City LCP segment. With very minor exceptions, typically for drainage facilities, existing development occurs only on the flat mesa tops, with the slopes and canyon walls remaining undisturbed. This is consistent with the existing LUP language specifically prohibiting grading beyond the canyon rim of Los Penasquitos Canyon Preserve, which includes both Penasquitos and Lopez

Canyons. As submitted, modifications of this, and other, existing LUP language cannot be found consistent with Chapter 3 of the Coastal Act, as detailed below.

1. Land Use/Concentration of Development. The following Coastal Act policy addresses the appropriate location of new development, and states, in part:

Section 30250.

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels. ...

The existing legal lots are located both north and south of Calle Cristobal, north and south of Lopez Canyon and east and west of Camino Santa Fe. Currently, all but one of the lots include at least some small area designated for residential use. These areas typically are located at the tops of side canyons, and consist of both flat and sloping areas. The proposed LUP amendment would redesignate six of the lots to be entirely open space, consisting of the three lots south of Lopez Canyon, two lots north of Lopez Canyon and one of the two legal lots north of Calle Cristobal. The lots on the mesa top along the southern rim of Lopez Canyon abut existing built residential subdivisions, and access to those undeveloped sites would only be available via easements through the existing development or roads constructed around the perimeter of the existing development. Also, site topography and biological resources would limit these areas to very few homes, as would existing zoning. The one lot north of Calle Cristobal to be retained as open space appears completely landlocked, and is designated only as open space in the certified Mira Mesa LUP. It is only on this parcel that riparian wetlands exist.

Exhibit #5 is an approximation of the nine existing legal lots, which are identified by the last two digits of the assessor's parcel number. Lot 8 is 9.97 acres in size, Lot 10 contains 8.19 acres, Lot 15 equals 8.54 acres, Lot 23 contains 26.32 acres, Lot 24 equals 10.21 acres, , Lot 25 contains 5.44 acres, and Lot 43 is comprised of 55.18 acres, Lot 44 is 29.49 acres in size and Lot 45 contains 36.06 acres, The cited Coastal Act policy mandates consolidation of development on the least valuable resources; the currently certified LUP demands the same by concentrating development on the mesa tops and prohibiting grading below the canyon rim. The proposed LUP changes identify development beyond the rim as "appropriate" in some instances. The Coastal Act policy maintains that only development on the mesa tops is "appropriate," since that is where the least valuable resources are located. Proposed language changes also refer to the City's Land Development Code regulations for specific criteria. The LUP should contain enough specificity that it can stand alone,

since, pursuant to the Coastal Act, the LUP is the controlling document for decision making purposes, and is the standard of review by which implementation plans are measured.

The LUP map revisions are driven by a specific development proposal (Crescent Heights) which has already been approved at the City and which the Commission will review in the future. So too, are the proposed narrative amendments to the Mira Mesa Community Plan, which suggests that implementing zones, which include density parameters, be determined by matching the proposed development with the most appropriate available zone, rather than first designating a zone and then approving a development consistent with the zone's design criteria. The certified LUP includes suggested zones to implement the low and very low designated densities (R1-5,000 and R1-10,000) which would accommodate density ranges of 4-10 and 0-4 dwelling units per acre (dua) respectively. Although the City does not propose to change the low and very low LUP map designations, the zones now proposed for implementation would accommodate up to 29 (RM-2-5) and 14.5 (RX-1-2) dua respectively. These are not zones that are typically used to denote low or very low density, but are generally considered more in the medium density range. However, they were chosen by the City because they corresponded best to the specific development proposal it has already approved with respect to housing type, minimum lot size, setback requirements, etc. To allow more potential flexibility in future zone selection, the proposed LUP amendments delete the reference to any specific zone.

Under the proposed amendment, the number of potential living units increases significantly over what the current AR-1-1 zoning (one dwelling unit per ten acres) would allow. However, it must be acknowledged that the certified LUP envisioned higher residential densities in this community, as the LUP designated residential densities of up to four dua and even higher densities in other parts of the community suggest, to address serious housing shortages in San Diego. All nine lots have severe environmental constraints. Thus, as addressed in the certified LUP, it is not reasonable to expect to achieve the highest density levels possible based solely on the ranges allowed in chosen zones. Also, Section 30250 of the Act requires that new development be accommodated with existing public facilities. In this particular case, the development proposed in the accompanying coastal development permit applications calls for an increase in the size of stormwater lines. The current stormwater system was designed to accommodate planned development at 1981 densities, but the community has not been completely built out and not all anticipated stormwater system upgrades have yet been installed; the currently certified LUP retains the same amount of overall residential development as was planned in 1981, and the City-approved project does not exceed that amount.

In summary, the Commission finds that the LUP changes proposed by the City would accommodate development in inappropriate locations, which is inconsistent with Section 30250 of the Act. Nevertheless, the Commission believes that, with modifications to the proposed amendments, residential development consistent with all plan policies and still allowing a higher concentration of development in limited areas can occur. Suggested modifications to accommodate this will be discussed in Part V of this report.

2. Environmentally Sensitive Habitats/MHPA. 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 resource 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). Sensitive lands within the MHPA are identified as Tier I through Tier IV lands, with Tier I being the most rare and/or sensitive.

Implementation of this large-scale approach to habitat conservation will allow some development involving incidental take of listed species and/or environmentally sensitive habitat in those areas where it is 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 Coastal Act policies regarding Environmentally Sensitive Habitat Areas (ESHA), which 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), impacts to the habitat should not be allowed except for uses that are dependent on that resource.

The proposed map changes to the LUP exhibits include a revised location of the hardline MHPA boundary, which separates developable areas from open space lands. The proposed LUP amendments would relocate this line from its precise location on the original maps in a number of places, with an overall gain in acres, but an apparent loss of habitat value, as discussed below. Therefore, the proposed changes to the open space and MHPA line cannot be accepted as submitted.

A number of different Coastal Act policies address potential impacts on sensitive biological resources. These will be cited in the appropriate subheadings:

UPLAND HABITATS

Section 30240.

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

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

The various legal lots involved in these proposed LUP and IP changes all contain areas of sensitive upland vegetation, including areas of up to ten different sensitive upland communities of coastal sage (six communities), chaparral (three communities) and non-native grasslands. There are also seven vernal pools, a rare, seasonal form of wetland, on one of the parcels, and riparian wetlands (southern willow scrub and coyote bush scrub) on another. The properties also harbor a number of sensitive and/or listed plant and animal species, including the San Diego Coast Barrel Cactus, Coastal California Gnatcatcher, San Diego Horned Lizard and Southern California Rufous-Crowned Sparrow. Not all vegetative communities and sensitive plants and animals exist on all lots, and some are already located in areas not designated for development in either the certified LUP, or the proposed modified LUP.

Native grasslands are very rare, and are identified as a Tier I habitat in the City of San Diego's MSCP. Tier I habitats are considered those most rare and valuable for the overall preservation of sensitive plants and animals. Grasslands provide foraging area for many species, and are particularly valuable for raptors as hunting fields. Non-native grasslands, a Tier IIIB habitat, are considered less valuable than the native grasslands, but still perform many of the same biological functions. Nearly all the identified non-native grasslands on the Crescent Heights site occur within the proposed residentially-designated areas. There are no native grasslands on the Crescent Heights property.

Based on vegetation and habitat distribution on the site, development of the portions of the 185-acre site proposed for residential use could create inappropriate development patterns that could have significant adverse impacts on environmentally sensitive lands and sensitive habitats, depending on the specific development proposals brought forward. For example, the original Crescent Heights subdivision proposal, which is dependent upon this proposed LUP amendment and rezone, would result in the direct loss of 4.61 acres of coastal sage scrub, 29.23 acres of chaparral, and 2.58 acres of non-native grasslands. Although this specific property owner has since redesigned its subdivision plans, significantly reducing overall impacts, the cited impacts given above are typical of what would be allowable for any potential development built consistent with the proposed LUP revisions and rezones. The potential loss of these habitats is all the more significant as they are part of a natural canyon system that supports sensitive species, are part of the approved MHPA lands, and represent one of the few remaining natural urban greenbelts in San Diego.

In addition to the presence of several sensitive habitat types, the coastal sage and associated upland communities are home to a number of sensitive and threatened species,

including the California gnatcatcher, rufous-crowned sparrow, San Diego coast horned lizard, and coast barrel cactus. Based on site surveys conducted during preparation of the EIR, there are four gnatcatcher pairs and one unpaired male on the Crescent Heights development sites. Although none of the actual gnatcatcher sightings was within 500 feet of the area delineated for residential development in the proposed LUP amendments, the habitat types where the gnatcatchers were seen extend into the project footprints. It would be difficult, and probably inaccurate, to say the project site is not occupied, at least for foraging and resting purposes.

The proposal to modify the LUP policy currently prohibiting grading beyond the rim of Los Penasquitos Canyon is particularly problematic, since the proposed language would purport to allow the grading, filling or alteration of the upper portions of many side canyons, which generally trend north-south, or perpendicular to the main east-west trending Los Penasquitos and Lopez Canyons. The canyon walls are vegetated with a variety of sage and chaparral communities, which, at a glance, appear more dense on the north facing slopes of both canyons. However, the more sensitive plant communities (the various coastal sage communities), and nearly all the identified individual sensitive plant and animal species, are located on the south-facing slopes of Lopez Canyon. The various coastal sage communities are identified as Tier II habitat in the MSCP, whereas the chaparral communities are Tier III habitats. Portions of these communities would remain in their current open space LUP designation, but others are proposed to be redesignated for residential development.

With respect to the proposed LUP map changes, these are intended to redraw the boundaries between currently designated residential areas and areas of designated open space. Although in the past the Commission has reviewed similar changes proposed as a means to more accurately depict the actual topography and vegetation of the sites, in this particular case, the proposed changes would actually accommodate a significant amount of future development within existing canyons, as well as within areas of sensitive vegetation and close by identified sensitive plant and animal individuals. The proposed map changes also adjust the existing boundary of the Multiple Habitat Planning Area (MHPA), resulting in a net gain of approximately 10 acres of lands covered by the MHPA. The proposed MHPA boundary would be co-terminus with the boundary between residential and open space lands, as currently proposed for modification.

As stated in the prior finding, the proposed LUP map revisions and policy changes are designed around and driven by a specific development proposal which has already been approved at the City and which the Commission will review in the future. Although the proposed LUP would retain the 0-4 du/unit land use density found in the currently-certified version, the zones now proposed for implementation would accommodate up to 29 du/unit (RM-2-5) for multi-family units and 14.5 du/unit (RX-1-2) for single-family units. As stated previously, the City selected these zones for parameters other than potential density limits. However, the Commission must review the LUP and IP amendments independent of any specific development plan and analyze the maximum impacts any proposed project could have based on the development criteria of the proposed LUP policies and implementing zones. The particular project approved by the City may never be built, but

the parameters accommodating it will remain part of the City's LCP to dictate other development proposals in the future.

Another significant concern is that the proposed LUP amendment will refine the line between developable area and open space including revision to the MHPA line. Areas of sensitive vegetation that are currently protected as open space, will no longer be protected if the amendment is approved, including areas of coastal sage scrub adjacent to, and contiguous with, occupied gnatcatcher habitat. The proposed project footprint would also displace or destroy a significant number of the other identified sensitive plant and animal species that are located, again, in areas that are now designated open space, but which would be within the developable area if the LUP amendment is approved. The Commission has, in the past, approved a few modifications of the open space/MHPA line, but, in those instances, the modification resulted in more habitat of equal or better quality being protected, and was based not on proposed project design but on the locations of on-the-ground resources.

The proposed amendment would be the first time the Commission will act on a request to modify the residential/open space boundary in a manner that, although increasing the total acreage of preserved land, decreases the existing habitat values of the property being protected. Most of the new increases in open space lands are comprised of southern mixed chaparral, chemise chaparral, eucalyptus groves and disturbed area, with a very small amount of added coastal sage scrub, the most valuable coastal upland community from a habitat standpoint. On the other hand, the areas currently protected within the existing open space designated, MHPA boundaries, but proposed to be removed from the open space designation and incorporated into the future development footprint, are primarily coastal sage communities. The areas being added to the preserve do not include a single identified sensitive species sighting, whereas the areas lost contain rufous crowned sparrows and San Diego coast barrel cactus. Finally, some of the areas being added to the preserve are immediately adjacent to existing residential development, and already subject to edge effects and potential disturbance for brush management associated with those existing homes.

The potential effects of brush management on biologically valuable habitat cannot be underestimated. Current City regulations require as little as a 30-foot clear-cut area for new subdivisions in the coastal zone, then as little as 20 feet more of selective thinning, with an overall maximum brush management zone requirement of 70 feet in the coastal zone. These regulations were in place prior to last October's devastating wildfires in San Diego County. Based on these events, and in anticipation of a challenging upcoming fire season, the Fire Chief is recommending a minimum 100-foot brush management zone be applied citywide, including a minimum 50 feet of clear-cut (Zone I) and 50 or more feet of selective clearance and thinning (Zone II).

The City is currently reviewing its brush management regulations, and will be bringing forth an LCP amendment to incorporate modifications in the near future. These will address all habitable structures within a *High Fire Hazard Area*, as well as accessory structures measuring more than 120 sq.ft. in size and located less than 50 feet from any habitable area. The City's proposed code changes define *High Fire Hazard Area* as "any

open space, park area, undeveloped public or private lands containing native or naturalized vegetation, and areas containing environmentally sensitive lands.” The potential changes would also require new habitable structures to incorporate fire prevention construction materials, including sprinkler systems, non-combustible roofs and garage doors, and special exterior treatments for eaves, skylights, gutters, etc.

The current Mira Mesa LUP was certified in 1993. Due to its age, it includes no specific references to brush management, only general policies protecting the steep hillsides and sensitive resources to the maximum extent possible, and requiring new development on the mesa top to be very low density and clustered in a manner to preserve those hillsides.. More recent LUP certifications, such as Del Mar Mesa and Pacific Highlands Ranch, two subareas of the North City Future Urbanizing Area, have addressed brush management issues by reference to the specific brush management regulations of the MSCP and through establishment of clear boundaries between developable area and open space. In current form, those regulations require 30 feet of Zone I and an additional 20 to 40 feet of Zone II thinning and clearance. Zone I clear-cut, which removes all portions of a plant above the ground, is considered an adverse impact (i.e., an encroachment) if it occurs within sensitive areas; however, because Zone II leaves approximately 50% of the overall cover and retains 100% of the root stock, it has, in the past, been considered “impact neutral” (i.e., neither detrimental nor beneficial to habitat function). More recently, the Commission’s ecologist and spokespersons from the other resource agencies, have determined that removal of 50% of the overall vegetative cover does indeed have an adverse impact on habitat function, such that Zone II brush management is no longer considered “impact neutral” by those entities.

The current LUP amendment request does not propose any language to address brush management, and, since the accompanying project was approved at the City level prior to the October, 2003 fires, the local approvals only require a 30-foot setback for principal structures from the boundary with open space. If the proposed regulation changes occur, those standards, applied to the locally-approved companion subdivision, would allow up to 70 feet of Zones I and II brush management within dedicated open space within the MHPA. Although this may not be preventable when addressing existing development’s fire safety requirements, the LUP can be modified to require appropriate building setbacks for new development such that significant brush management impacts will not occur within preserve habitat areas.

WETLAND HABITATS/VERNAL POOLS

Section 30231.

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging

waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30240.

Cited previously.

There are seven vernal pools, a rare and unique form of seasonal wetland, on the Crescent Heights site, all located north of Calle Cristobal. These are all on a legal lot proposed for multi-family residential development, but no direct impacts to the pools will occur. The proposed LUP map changes result in the designation of the vernal pools, including their watersheds, as open space, and the concurrent IP rezoning will put them all in the OC-1-1 zone (Open Space Conservation), the City's most restrictive open space zone. Thus, no direct impacts to vernal pools will occur.

There is, however, serious concern addressing the adequacy of wetland buffers between the vernal pools and the future development. Although the buffer "averages" 100 feet in width, this is primarily due to the furthest vernal pool being over 200 feet from the proposed development footprint; from most pools the proposed buffer is well under 100 feet, and there is as little as forty feet between the nearest pool and proposed grading for future multi-family complexes. Moreover, measuring the distance of each pool from the nearest development and averaging the results is not the way such calculations are generally made; the buffer width is simply the distance between the closest point of any pool to the closest proposed development area.

Even if the specific proposal associated with this proposed LUP amendment were never built, the certified LCP (LUP and IP together) will dictate future patterns of development. Nothing in the certified LUP requires a minimum width buffer for vernal pools, nor provides criteria for specific modification of the minimum 100-foot buffer for site-specific purposes. This requirement, and the criteria for exceptions, is located only in the certified Land Development Code, the City's IP portion of the LCP. The importance of the minimum 100 foot wetland buffer is further supported by conversations with other resource agencies.

Another significant issue identified by resource agencies is the increasing isolation of vernal pools from other habitat areas and from each other. Habitats are becoming more and more fragmented within the City of San Diego (and elsewhere), and past practices with vernal pools have often been to fence them with solid materials, provide some sort of minimal buffer, then build, often resulting in the pools being surrounded on all sides by urban development. This isolation reduces the likelihood that the pools will survive at all, let alone function normally. The seven vernal pools on the subject legal lot, both the five vernal pools in the western part of the site and the two in the eastern part, are adjacent to areas designated to remain open space and which connect with the canyon preserve as a whole. Both areas of vernal pools are, however, immediately adjacent to, and just north of, Calle Cristobal, a significant east-west trending transportation corridor. The group of five pools is surrounded on every side but to the northwest with urban development, or will be with approval of future development reliant on this amendment

as currently proposed. The group of two, although adjacent to the four-lane road on the south, is otherwise surrounded by areas to remain in open space. The only pool containing San Diego fairy shrimp is one of these two, which have been determined to be of higher value biologically than the others. Based on the companion project approved by the City, these two pools are also well more than 100 feet from the nearest area of potential residential structures; however, daylight grading to support these future units comes as close as 40 feet from one of these pools on the plans submitted with the permit application.

WETLAND HABITATS/WILLOWY MONARDELLA

Another wetland concern is protection of the willowy Monardella (*Monardella linoides* ssp. *Viminea*), which is a riparian subshrub species that grows on sandy terraces in seasonally dry washes. It is found only in San Diego County and Baja California, Mexico, and is declining rapidly in San Diego due to urbanization. Urbanization increases runoff, primarily through decreasing permeable surfaces and planting/irrigation practices, and many canyon streams that were once ephemeral now flow all, or nearly all, year long. Areas that were only subject to occasional erosion during major storms or floods now see some level of erosion during nearly every rain event. The San Diego County population of Monardella has dwindled to a few scattered locations within the northern part of the city, including two small areas in Lopez Canyon downstream from the subject properties; as comparison, a biological survey conducted in 1982 in conjunction with a different project located 14 distinct populations of this species in Lopez Canyon.

In Lopez Canyon, increased flows have caused all sediments to wash downstream, and the entire streambed, with the exception of some small remaining islands, is now cobble. Although Lopez Creek is still usually dry part of the year, the banks of these islands are being eroded away bit by bit. The Monardella requires the very specific micro-habitat that these islands/terraces provide. There have been a few attempts to transplant the species, but none have been successful. Thus, the species is identified as endangered on both the federal and state lists, and the California Department of Fish and Game (CDFG) has determined that all remaining individuals and colonies must be protected in place.

The various existing legal lots of the subject property are located both north and south of the Lopez Canyon floodplain, and future stormwater flows from those properties will be directed into Lopez Creek. As previously discussed, a number of sensitive habitat types are present within the canyon bottom, including the monardella, and on the canyon slopes. The type and location of future drainage facilities may be critical to the survival of the monardella. The Commission recently approved a coastal development permit (6-03-039) to install protective devices to prevent further erosion of the “islands” where the remaining monardella exists. The erosion rate is directly linked to the amount and velocity of stream flow, which, outside of major storm events, is dictated by the amount of upstream impervious surfaces and the upstream residents’ practices with respect to irrigation, car-washing, and the recreational use of water (pools, spas, etc.).

In 1983, the Commission approved a permit for construction of a stormwater detention and conveyance system for Lopez Canyon. The detention facility is the Montongo Basin, which is located near the head of Lopez Canyon, approximately a mile upstream of the Crescent Heights property. The piping system runs through the canyon bottom, with lateral pipes extending into many of the side canyons to serve mesa top development. The basin was sized to assure no overall increase in peak runoff from the build-out of Mira Mesa. Because much of the buildout occurs west (downstream) of the basin, the basin itself is designed to overcompensate for development to the east to achieve the overall goal of no net increase.

Although this system assures that the actual amount of water reaching downstream resources does not increase, it does little to address the issue of water velocity and erosion potential due to runoff from the Crescent Heights site. These are the factors of concern when considering preservation of the downstream Monardella populations. There is nothing in the currently-certified LUP that addresses this particular issue, nor is anything proposed in this amendment request. Thus, the Commission finds the proposed amendment accommodating significant development on the Crescent Heights site does not adequately protect downstream sensitive and endangered resources. In summary, the proposed amendments are inconsistent with the cited resource protection policies of the Coastal Act as they would allow destruction of ESHA in several locations, would remove areas of ESHA currently mapped in the MHPA from the protections of that program, and endanger downstream resources. Therefore, the Commission finds the proposed LUP amendment must be denied as submitted.

3. Hazards/Brush Management. The following Coastal Act policy is most applicable to the proposed development, and states in part:

Section 30253

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. ...

Brush management has already been discussed in the previous finding with respect to the impacts of clearance on habitat value. However, the potential for wildfire at the subject site warrants brief discussion as well. The areas to be designated for single- and multi-family development are immediately adjacent to naturally vegetated steep slopes that are part of a large canyon system. It is very likely that future development on this site will be threatened by fire sometime during the economic life (approximately 75 years) of such development. This is true, however, for most new development throughout the City of San Diego and indeed Southern California. Population increases have forced new

development ever further into undisturbed and topographically constrained areas. Specific fire safety design criteria is not currently discussed in the certified LUP for the Mira Mesa community. However, design criteria in the Land Development Code addresses this concern and requires specific building elements and setbacks in fire-prone areas. In conclusion, the proposed LUP amendment does not assure fire safety as it proposes grading and development beyond the canyon rim, pushing development ever closer to thicker stands of flammable vegetation on the canyon walls and requiring additional clearance of Tier I and Tier II habitats.

4. Water Quality. The following Coastal Act policy addresses this issue:

Section 30231.

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The subject site is located within the Los Penasquitos Lagoon watershed, and the area to be developed in the future is located north and upland of the streambed of Lopez Creek, and south and upland of the streambed of Penasquitos Creek, on top of the adjacent mesas. The proposed LUP amendment will not result in any direct changes in water quality because no physical improvements are approved at this time. However, the proposed LUP amendments set the stage for intense residential development in this location, which will significantly increase the amount of impervious surfaces. Due to the age of the subject certified LUP, water quality was not discussed as a major concern at the time of Commission review. This issue has gained prominence in recent years, and newer LUPs include specific water quality standards. Since this LUP amendment addresses only a few specific policies, and does not represent a more general update, it would not be appropriate to add a significant number of new policies through this Commission action. Moreover, the City's Land Development Code includes detailed water quality regulations, which are ultimately reviewed by the State Water Resources Board.

5. Visual Resources. The following Coastal Act policy addresses this issue:

Section 30251.

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual

quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Existing LUP policies addressing visual resources are not proposed for modification. Existing policies address the visibility of new development from the streambeds of Lopez and Penasquitos Creeks, appropriate setbacks, appropriate building materials and colors and landscaping. These policies will continue to direct development, and will be applied to any proposed projects on the subject site.

PART V. FINDINGS FOR APPROVAL OF THE LCP LAND USE PLAN AMENDMENT, IF MODIFIED

As proposed by the City, the amendment request would allow significant impacts on ESHA, which are not consistent with Section 30240 of the Coastal Act. The City does not use the term ESHA, but identifies that all Tier I and Tier II habitats, along with all lands mapped within the MHPA, warrant special protection as environmentally sensitive lands. The Commission determines what is ESHA both by habitat type and function. Because of the criteria the City uses for identifying Tier I and Tier II habitat, all areas that are identified by the City as Tier I or Tier II habitat necessarily constitute ESHA under the Coastal Act, and, in some instances, habitats not identified as Tier I or Tier II can be identified as ESHA as well, particularly if used by listed species, contiguous with other ESHA or located within wildlife corridors. On this particular site, however, the Commission accepts that the only ESHAs are the areas identified as either Tier I or Tier II habitats by the City.

Although the Commission could not find the proposed amendment consistent with Chapter 3 of the Coastal Act as submitted, with the adoption of suggested modifications such a finding can be made. The suggested modifications begin on Page 9 of this report and address the Commission's stated concerns over adequate preservation and protection of sensitive biological resources on the subject site, and the accuracy of LUP and zoning maps to reflect the actual location of these resources.

A. BREAKDOWN OF INDIVIDUAL SUGGESTED MODIFICATIONS

The first suggested modification addresses corrections to several of the LUP maps. It requires revision of the identified maps to be fully consistent with the resources on-the-ground on the Crescent Heights property. As proposed by the City, areas of sensitive habitats, including ESHA, would be included in the developable areas of the site. This cannot be found consistent with Section 30240 of the Coastal Act.

As modified and addressed in the revised map required by Suggested Modification #1, the Commission would allow changes to the open space/MHPA boundary that would not remove any Tier I or Tier II habitat from the MHPA. Minor adjustments to more accurately reflect the topography and allow the line to correspond with the rim of the

canyon have been accommodated. In addition, there are areas where the flatter mesa top containing less sensitive habitat has been removed from the MHPA to allow a development pattern consistent with the certified LUP policies.

One purpose of this amendment request is to make the MHPA, land use, and zoning boundaries consistent, such that all land designated and zoned open space is within the MHPA and all developable area is not. Although the MSCP subarea plan is not part of the certified LCP, the MHPA is referenced in several certified land use plans, including being depicted on maps, and forms the basis for the City's environmentally sensitive lands regulations in the certified LDC. The only changes to the MHPA boundary that would be consistent with the Coastal Act are those that would be more protective of significant habitat, i.e. Tier I and Tier II habitat, than the current boundary. Thus, the Commission finds that the only acceptable modifications of the MHPA line that would remove area from the MHPA (understanding that the line is to coincide with land use and zoning boundaries that are part of the certified LCP) are in instances where the line was drawn such that the MHPA includes mesa top areas that do not contain Tier I or Tier II habitat.

Suggested Modification #2 addresses the City's proposed rezoning of the property. The line between developable area and open space must be consistent with the line established in the LUP as certified herein. Thus, certain revisions are necessary and are required in the suggested modification.

The third suggested modification addresses the description of very low density residential development found on Page 77 of the certified LUP. It would remove references to the R1-10,000 and R1-5,000 Zones, which are no longer part of the City's municipal code. When the old code was replaced with the Land Development Code in 2000, all zone names were changed and a significant number of completely new zones were added. The City added new zones to provide greater flexibility/creativity in site design, as much of the future development will occur in biologically and topographically constrained areas of the City, both inside and outside the coastal zone. The wider range of zones will encourage the concentration of development and maximization of open space by allowing zones to be chosen for reasons other than density alone.

The Commission finds it more appropriate to include additional criteria by which to select the most applicable implementing zone in the LUP, rather than identify specific zones in the LUP. By adding design criteria and product type as additional criteria for the selection of a zone for a site from among those that are consistent with the "very low density residential development" land use designation, the City will be given appropriate guidance in selecting a zone for a particular site. Moreover, the certified requirement that areas designated for very low density development can only be developed with 0-4 dwelling units per acre is not changed through this amendment, and will continue to provide a cap on the actual density allowed on any given site, yet allow the City to use higher density zones if other criteria of those zones are more suitable to the site. Since the LUP is the controlling document, the land use designation in the LUP will take precedence over specific zone criteria should there be a conflict between the two.

Suggested Modification #4 adds specific development criteria for the Crescent Heights property on Page 80 of the certified LUP. This is warranted due to specific resources on the site (including vernal pools and occupied habitat), the non-contiguous nature of the lots, and the balancing of harms and benefits to this area that is discussed below, and which is ultimately accomplished through retirement of six legal lots from development potential. The criteria impose a cap on the total number of units allowed (250) and require the units to be clustered on three of the existing legal lots. Developments rights on the other six legal lots will be retired and those lots maintained as open space conservation areas. Other criteria addresses protection of wetland species.

Finally, the last set of site-specific development criteria in Suggested Modification #4 (to be codified in section d.5) allows an exception to the LUP policy prohibiting grading beyond the rim of the canyon. This exception applies only to the Multi-Family West development area, and it is necessary to allow access to the developable portions of the site already delineated for residential development in the certified LUP. Grading over the rim in this location to construct a road will impact approximately one acre of ESHA. For that reason, it remains inconsistent with Section 30240 and could not be approved but for the application of the Coastal Act's balancing provisions. This factor will be discussed in more detail below, in the findings regarding the balancing provisions of the Coastal Act.

The fifth suggested modification augments and updates existing development criteria on Page 107 of the certified Mira Mesa Community Plan that apply to development adjacent to Los Penasquitos Preserve. It acknowledges the site specific proposals for the Crescent Heights property. It also updates an existing policy that requires predominantly native species to acknowledge the problems associated with introduction of invasive species into the environment. The revision would allow only non-invasive species in association with development adjacent to the preserve to meet the requirements of Section 30240. The revisions accommodate the site-specific grading exception for Crescent Heights and add "non-invasive" as a requirement for landscaping adjacent to canyons.

Suggested Modification #6 deletes in its entirety one of the requested amendments to the LUP. As proposed by the City, grading over the rim of the canyons would be allowed in certain circumstances, and these provisions would be applied to the community as a whole. The Commission finds it inappropriate to allow a blanket exception for the entire community when it is not known at this time if any other properties in the community have the same constraints as Crescent Heights. The proposed language would allow application of the exception to any project determined to be "environmentally superior." Many projects could be "environmentally superior" without being the least environmentally damaging alternative. This raises a significant potential for misinterpretation or application of the proposed exception in a manner inconsistent with Chapter 3 of the Coastal Act.

On the other hand, the Commission finds that the site-specific language found in Suggested Modification #4 – although similar to that which was rejected in Suggested Modification #6 – can be harmonized with Chapter 3 through a balancing approach. That language allows development that would displace ESHA as well, but only in a specific area and only in conjunction with the preservation of vernal pools and their watersheds,

protection of additional areas containing Tier I and Tier II habitat, and concentration of the habitat preserve. Much of this would be accomplished by retiring development potential on six otherwise developable parcels. This approach limits the exception to the LUP policy prohibiting grading beyond the rim of the canyon to a site specific proposal in which the impacts allowed to ESHA would be balanced against multiple benefits, so that the proposal on the whole is most protective of coastal resources, as well as being less open to discretionary interpretation. The Commission can support a site specific exemption to the policy allowing grading over the canyon rim only under these circumstances. The following section explains that approach in greater detail.

B. CONFLICT RESOLUTION: ESHA AND CONCENTRATION OF DEVELOPMENT

[to be supplemented in addendum]

The LUP amendment, as modified herein, provides for the preservation of large, contiguous blocks of habitat with high natural resource value relative to covered species, and to generally locate development away from these areas. This will ensure that the critical wildlife movement corridors and on-site populations of gnatcatchers have sufficient areas of high-quality habitat for species survival. The clustering and concentration of development away from sensitive areas that will result from the proposed standards will provide a larger, more contiguous preserve area than if development on the same properties were to be approved on a lot-by-lot basis. Moreover, edge effects will be minimized by the retirement of development rights altogether on six of the nine legal lots.

The three lots available for development are adjacent to existing residential development and will be accessible with less adverse environmental impacts than would be necessary in order to create access to development on the other six lots. Moreover, areas of sensitive habitat not currently within the MHPA, such as the vernal pool areas north of Calle Cristobal, will now be included within the revised boundary of open space. The Commission therefore finds that approval of the LUP amendment, if modified as suggested, would result in increased clustering of development, expansion of protected areas, and reduction of urban sprawl into sensitive habitat areas and MHPA lands.

Although not entirely consistent with every Coastal Act policy, the LUP amendment, if modified as suggested, would produce cumulative benefits that would be more consistent with the policies in Chapter 3 of the Coastal Act than either development under the LUP as currently written or development under the LUP amendment as proposed by the City. In fact, the benefits would, on balance, be the most protective of significant coastal resources as could reasonably be expected, given the circumstances. This finding that approval of the LUP, with the suggested modifications, is the most protective option for coastal resources is based on the understanding that the retirement of development rights on six legal lots will be implemented prior to any development occurring on any of the nine legal lots. It is also based on strict application of the Open Space Conservation zone requirements on open space areas of the three buildable lots, with the exception of the access road to the multi-family west development.

The City has proposed, and the Commission has further modified, revisions to the LUP policies, and LUP maps, which establish a hardline boundary between developable and open space areas. Therefore, the Commission finds that, with the understandings listed above, and the suggested modifications included herein, the LUP amendment is consistent with applicable Coastal Act policies, and that, on balance, it represents the option most protective of significant coastal resources.

PART VI. FINDINGS FOR REJECTION OF LCP IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The proposed Implementation Plan amendment would rezone all the parcels, which are currently zoned Agricultural-Residential (AR-1-1), a very low density holding zone (minimum 10-acre lots). The A-1-10 zone of the old Municipal Code converted to the AR-1-1 Zone in the Land Development Code, which went into effect in the coastal zone on January 1, 2000. All proposed permanent open space would be rezoned to Open Space-Conservation (OC-1-1), the City's most restrictive open space zone.

Areas to be developed with single-family residential use will be rezoned to Residential – Small Lot (RX-1-2), and areas proposed for multi-family development will be rezoned to Residential Multiple Unit (RM-2-5). The properties generally surround the intersection of Camino Santa Fe and Calle Cristobal, in the Mira Mesa Community of the North City LCP segment.

B. SUMMARY 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. The following LUP policies apply to the proposed rezone of the nine parcels comprising the Crescent Heights development site.

The open space portion of the certified Mira Mesa LUP includes the following policies:

Policy 1.a. states:

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

Policy 4.c. states:

No encroachment shall be permitted into wetlands, including vernal pools. Encroachment into native grasslands, Coastal Sage Scrub, and Maritime Chaparral shall be consistent with the Resource Protection Ordinance. Purchase, creation, or enhancement of replacement habitat area shall be required at ratios determined by the Resource Protection Ordinance or State and Federal agencies, as appropriate. In areas of native vegetation that are connected to an open space

system, the City shall require that as much native vegetation as possible is preserved as open space. *(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.)*

Policy 4.e. states, in part:

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

Policy 4.i. states:

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

Proposal 1. states in part:

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

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

Goal (cover page of element) states:

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

Policy 1. Determination of Permitted Density states:

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

1. Compatibility with the policies established in this plan;
2. Compatibility with the density and pattern of adjacent land uses;

3. Consideration of the topography of the project site and assurance that the site design minimizes impacts on areas with slopes in excess of 25 percent and sensitive biology.

Policy b. states:

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

Proposal 1. states in part:

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

... Very low density: 0-4 dwelling units per gross acre. This density range is proposed for Lopez Ridge and the northeastern corner of the community near Canyon Hills Park. This range is generally characterized by clustered detached single-family or attached multifamily units (such as duplexes and town homes) built on large hillside parcels that contain relatively small areas suitable for buildings. Design flexibility on these hillside parcels is necessary to integrate development with the natural environment, preserve and enhance views, and protect areas of unique topography and vegetation. The R1-10,000 Zone or the R1-5,000 Zone if units are to be clustered to preserve natural open space areas, are proposed to implement this designation. The maximum four units per acre is not likely to be achieved except on lots that have large areas in slopes of less than 25 percent.

The revisions to the residential and open space land use designation boundaries in the LUP, and the subsequent rezoning of the property to reflect the revised boundaries and apply a residential zone to the portions designated for residential use, is being done to accommodate a specific residential subdivision that has already been approved by the City. The portions of the properties that are within the study area of Los Penasquitos Preserve, and essentially include those steep sloping hillsides, canyon and creek areas beyond the rim of the canyon, are in an area of deferred certification (ADC). Because the proposed subdivision includes lots within the ADC, the coastal development permit for the subdivision of the property is within the Commission's permit jurisdiction. Chapter 3 policies are the legal standard of review for the portion within the ADC, and the certified LCP is the standard for the remainder of the development.

The proposed changes to the LCP Implementation Plan would accomplish two specific goals. First, the line between land assigned for residential use and open space will be modified to reflect existing topography and sensitive biological resources. Second, six existing legal lots, five of which currently have residentially designated areas on the mesa top, would be zoned open space, with future development potential on those parcels being retired. The three remaining legal lots would have a revised boundary between residential and open space zones, and the proposed residential and OC zones would

reflect the revised boundaries. The revision to the open space line also results in a revision to the MHPA line.

The above-referenced LUP policies suggest the R-1-5,000 and R-1-10,000 zones would be the appropriate zones to implement the very low density (0-4 du/a) residential land use designation for the mesa top parcels. If the “units are clustered to preserve natural open space areas,” the R1-5,000 Zone is more appropriate. The policies acknowledge the need for design flexibility and clustering to protect the areas of unique topography and vegetation. Specifically, in determining permitted density for development, the policies require consideration of the topography to assure the site design minimizes impacts on slopes in excess of 25 percent and on areas of sensitive biology. The very low density residential designation was chosen acknowledging these are “large hillside parcels that contain relatively small areas suitable for buildings”. The plan states “the maximum four units per acre is not likely to be achieved except on lots that have large areas in slopes of less than 25 percent”.

The City has indicated the proposed zones were chosen, however, not to increase density, but because the design criteria of these zones would allow the small-lot and multi-family development preferred by the City in order to increase housing stock, concentrate the development on the mesa tops and maintain the majority of the property in open space. The Commission finds these arguments reasonable, and accepts the proposed zones. The Commission finds that the concern with regard to the proposed zones, and the reason this IP amendment must first be denied, is that the changes to the limits of the developable and open space areas, as certified in the LUP action on this amendment, no longer match the exhibit submitted by the City. A new rezoning map correctly identifying those boundaries on each site must be prepared and incorporated into this LCP amendment.

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.

OC-1-1 (Open Space Conservation)

a) Purpose and Intent of the Ordinance. The purpose of the OC-1-1 Zone is to protect natural and cultural resources and environmentally sensitive lands. It is intended that the uses permitted in this zone be limited to aid in the preservation of the natural character of the land, thereby implementing land use plans.

b) Major Provisions of the Ordinance. Among others, the primary provisions of the OC-1-1 Zone are:

- Only passive recreation and natural resources preservation are allowed by right.
- Satellite antennas may be permitted in limited locations or circumstances.
- Interpretive centers are allowed only with a conditional use permit.

c) Adequacy of the Ordinance to Implement the Certified LUP Segment. This is the City's most restrictive open space zone with respect to the types and level of uses allowed. Basically, the only allowed uses are those that protect, preserve or enhance the natural or cultural resources present on a specific site. The Commission finds this is the most appropriate zone to apply to those portions of properties designated as open space in certified land use plans. Furthermore, the Commission supports the use of this zone, and has no issue with any of its provisions. However, through approval of the proposed LUP amendment with suggested modifications, the Commission has approved a revised line between developable area and open space (MHPA lands). This revised line should be reflected in the proposed rezone with the OC zone corresponding to the revised MHPA boundary and the residential zones applied to the developable areas. Thus, application of this zone boundary as proposed on the submitted rezoning map will not adequately protect all identified resources, as required in the certified LUP. The Commission therefore finds that the amendment, as currently proposed, is not consistent with, and fails to implement, the certified LUP.

RX-1-2 (Small Lot Single Family Residential)

a) Purpose and Intent of the Ordinance. The purpose of the ordinance is to provide for both attached or detached single dwelling units on smaller lots than are required in the RS zones. It is intended that these zones provide an alternative to multiple dwelling-unit development where single dwelling unit developments could be developed at similar densities. The RX zone provides for a wide variety of residential development patterns.

b) Major Provisions of the Ordinance. This ordinance includes several significant provisions and regulations, including:

- minimum 3,000 sq.ft. lots
- single-family residential development only
- minimal setbacks and 0.80 FAR
- additional discretionary review for non-residential uses

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

As currently proposed, the RX-1-2 zone will implement the certified LUP, as certified by the Commission with suggested modifications. The City, in trying to maximize housing availability, chose this particular zone to minimize the size of lots and thus increase the number of units while still retaining most of the site in open space. By itself, this zone could potentially allow more units than the maximum 4 du/a allowed by the LUP, but the LUP retains its very low density residential designation which effectively caps development at appropriate levels consistent with resource constraints and ranges from 0-4 du/a.

Because the Commission did not support the LUP amendment as submitted by the City, the proposed rezoning map incorrectly identifies where the open space and residential zone would apply. The Commission certified the LUP only with suggested modifications

which have amended the open space/residential boundaries in several locations. Therefore, although the RX-1-2 zone is consistent with, and will adequately implement, the certified LUP, the Commission must first deny the IP amendment in order to facilitate the preparation of new, accurate maps, including the subject rezoning map C-917.

RM-2-5 (Multi-Family Residential)

a) Purpose and Intent of the Ordinance. The purpose of the RM zones is to provide for multiple dwelling unit development at varying densities. The RM zones individually accommodate developments with similar densities and characteristics. Each of the RM zones is intended to establish development criteria that consolidates common development regulations, accommodates specific dwelling types, and responds to locational issues regarding adjacent land uses.

b) Major Provisions of the Ordinance. Of the many provisions of the residential zones as a whole, the following are most significant:

- RM-2-5 permits one dwelling unit for every 1,500 sq. ft. of lot area, or 29 dwelling units per gross acre
- design/development criteria must be consistent with nearby existing multi-family residential uses
- FAR of 1.35 is allowed to concentrate development

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

The certified LUP provides for a variety of housing types, including both single- and multi-family residences. This area of Mira Mesa includes both housing types as well as duplexes, condominiums and townhomes. Lopez Ridge is a narrow promontory between Lopez and Los Penasquitos Canyons, which together comprise the Los Penasquitos Canyon Preserve. Many of the properties on Lopez Ridge include both mesa top and canyon/steep slope areas, with the development contained compactly on the mesa top and the canyon slopes preserved as open space. The pattern of mesa top development is thus rather dense, as density is calculated over the property as a whole, but then concentrated on the mesa only. The City chose this zone because it is most consistent with the patterns of surrounding development, yet maximizes the potential for additional housing stock, which is badly needed in the city as a whole. The Commission finds the use of the RM-2-5 zone appropriate in this location as it is consistent with the certified LUP policies.

However, because the Commission did not support the LUP amendment as submitted by the City, the proposed rezoning map incorrectly identifies where the open space and residential zone would apply. The Commission certified the LUP only with suggested modifications which have amended the open space/residential boundaries in several locations. Therefore, although the RM-2-5 zone is consistent with, and will adequately implement, the certified LUP, the Commission must first deny the IP amendment in order to facilitate the preparation of new, accurate maps, including the subject rezoning map C-917.

PART VII. FINDINGS FOR APPROVAL OF LCP IMPLEMENTATION PLAN AMENDMENT, IF MODIFIED

As seen in the previous findings, the Commission finds the proposed implementing zones, OC-1-1, RX-1-2 and RM-2-5, are appropriate to implement the LUP, as just certified by the Commission with suggested modifications. The only issue is with the rezoning map itself (map C-917) which is not consistent with the Commission's action on the LUP. The boundaries between developable area and permanent open space are incorrectly drawn on the map, as submitted. Suggested Modification #2 requires that the map be updated consistent with the certified LUP. This will result in an accurate depiction of the subject area of the Mira Mesa community, and will implement the LUP open space preservation policies. Therefore, with the suggested modification, the Commission finds the revised rezoning map, as well as the zones it depicts, consistent with, and able to carry out, the provisions of the certified LUP.

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

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) – exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission and the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required, in 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 alternative 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.

