

**CALIFORNIA COASTAL COMMISSION**

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# TH 14B

January 27, 2004

**TO: COMMISSIONERS AND INTERESTED PERSONS**

**FROM: DEBORAH LEE, SOUTH COAST DEPUTY DIRECTOR  
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**SUBJECT: STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR AMENDMENT NO. 2-02 (Headquarters Point)**

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## SYNOPSIS

On December 31, 2002, the subject amendment request was received in the San Diego Area office. Upon submittal of additional information requested by staff, the file was deemed completed and filed on March 13, 2003. On May 7, 2003, the Commission granted a time extension of up to one year. The final date for Commission action is May 12, 2004.

## HISTORY AND SUMMARY OF AMENDMENT REQUEST

The original LCP amendment request from the City of San Diego, submitted on December 31, 2002, included three rezones that addressed all or portions of a 104.2-acre site, documented in 1995 as containing approximately 33 acres of coastal sage scrub habitat with the remaining acreage supporting native and non-native grasslands. The first rezone proposed by the city was actually processed at the city level in 1996, but no LCP amendment was proposed to the Commission until the December 31, 2002 submittal. That rezone would change 57.3 acres in the southern part of the site from SR (Scientific Research) to M-1B (Light Industrial). At the time the city processed that rezone, in 1996, it also issued a companion coastal development permit for the subdivision and light industrial development of that southern 57.3-acre area, known as Corporate Research Park. In addition to authorizing that development, the permit also required that the remaining 46.9 acres on the northern portion of the site be dedicated as open space; however, the existing RS-1-1 (Residential – Single Family, minimum 1-acre lots) zoning that applied to those 46.9 acres was not changed. The 46.9 acre area was dedicated as open space via dedication of an easement, which was accepted by the city.

The second rezone proposed by the city was processed at the city level in 2001, along with another companion coastal development permit, which, by its own terms, does not

become effective until the Commission certifies the rezone. The rezone would change 10.3 acres of the previously-dedicated open space from RS-1-1 to IL-2-1 (Light Industrial) to accommodate future development that the City approved through the companion permit (Headquarters Point). That permit also authorized vacation of the open space easement on these 10.3 acres. Finally, the third rezone would change the zoning on the remaining open space area (approximately 36.6 acres) from RS-1-1 (Residential-Single Family) to OC-1-1 (Open Space-Conservation).

The property is located east of Vista Sorrento Parkway, between Lusk Boulevard and Mira Mesa Boulevard, in the Mira Mesa Community of San Diego. In reliance on the purported rezoning of the lower 57.3 acres and the city-approved coastal development permit (CDP) for Corporate Research Park, the industrial subdivision on the southern part of the site is now partially built and occupied. However, because the rezone was not processed by the City as an LCP amendment or approved by the Commission, and the companion CDP relies on the rezoning, Commission staff has questioned the validity of the City-issued CDP for Corporate Research Park.

In 2001 and 2002, the City approved the other two rezones addressing only the northern part of the original site, which had been dedicated as permanent open space to offset the loss of coastal sage scrub on the southern portion of the site. The City has acquired the 48.9 acre open space part of the property, although the partially developed southern portion, remains in private ownership. The City-approved companion CDP for future industrial development on the 10.3 acres allows the loss of the on-site open space to be mitigated off-site, but in the coastal zone, through land acquisition of existing habitat within the Multiple Habitat Planning Area (MHPA).

The certified Mira Mesa Community Plan serves as the LCP Land Use Plan (LUP) for this portion of the City's North City LCP segment. For the most part, the LUP designates the flatter portions of the entire 104.2 acre site for industrial uses, and the steeper parts as open space. The steep hillside portions of the site were mapped as sensitive in the Hillside Review Overlay zone contained in the previously-certified LCP, which would have been applicable at the time of the initial subdivision of the property. The area designated as open space in the LUP, on the northern portion of the site, roughly corresponds to the area the City has mapped within its Multiple Habitat Preservation Area (MHPA) in its NCCP subarea plan or the Multiple Species Conservation Plan (MSCP). The area designated as open space in the southern portion may have also been mapped within the MHPA if development of Corporate Research Park had not already been approved.

When Commission staff questioned whether the Commission would have approved the first rezoning, which allowed development of steep, naturally-vegetated hillsides and areas shown as open space in the certified Mira Mesa Land Use Plan, the City withdrew the component of the LCP amendment request addressing the southern portion of the site and Corporate Research Park. Thus, the submittal now before the Commission addresses only the more recent rezones of the northern part of the site, which, if certified, would result in zoning in the affected areas that roughly corresponds to the land use and open space designations for those areas as mapped in the LUP.

## **SUMMARY OF STAFF RECOMMENDATION**

Staff recommends the proposed amendment request be denied because it is not appropriate for the Commission to review zone changes for the northern half of the site independent of the rezonings and subsequent development of the southern portion of the site, which has occurred in violation of the Coastal Act. In the City-issued coastal development permit (CDP) for Corporate Research Park, approved in 1996, the City required that the entire northern portion be dedicated as open space. Although a portion of the northern part is identified for industrial use in the certified Mira Mesa Community Plan (LUP), the entire area was required to remain open space as mitigation for development of areas in the southern part of the site that are designated as open space in the LUP and that contain coastal sage scrub habitat. The City processed its series of approvals improperly, failing to forward the first rezone for Commission review in 1996. In addition, the City failed to amend the certified LUP, thus approving a rezone that was not consistent with the land use plan. One of the industrial lots created in 1996 is entirely designated as open space in the currently certified LUP and zoned for large lot single family residential development in the applicable zoning (since the city's rezone is not yet legally effective). A portion of at least one other parcel is also affected. Moreover, the city actions considered only the land use map, and failed to consider all applicable resource protection policies of the LUP. Thus, the 1996 action should have included an LUP amendment as well as a rezone, both of which required an LCP amendment approved by the Commission. To approve the subject rezones without consideration of the remaining resource value on the entire 104.2 acre site, and the loss of habitat which has already occurred without Commission review, would result in a net loss of environmentally sensitive habitat within the Mira Mesa community of the coastal zone.

Staff recommends the Commission deny the LCP amendment as submitted, and direct the City to process an LUP amendment and rezones for the entire 104.2 ac. site taking into consideration both the original and existing habitats, steep hillside encroachments and restoration potential for disturbed areas on the subject site, with permit amendments, as necessary, to offset the net loss of habitat which would occur if the proposed industrial development is approved. Such mitigation may include substantial restoration or creation of habitat in disturbed areas of the subject site within approved open space, and/or on slopes surrounding approved development, to assure no net loss of environmentally sensitive habitat in the coastal zone.

The appropriate resolution and motion begins on page 6. The findings for denial of the Implementation Plan Amendment also begin on page 6.

## **BACKGROUND**

The City's first Implementation Program (IP) was certified in 1988, and the City assumed permit authority shortly thereafter. The IP consisted of portions of the City's Municipal Code, along with a number of Planned District Ordinances (PDOs) and Council Policies. Late in 1999, the Commission effectively certified the City's Land Development Code

(LDC) and a few PDOs; this replaced the first IP in its entirety and went into effect in the coastal zone on January 1, 2000.

**ADDITIONAL INFORMATION**

Further information on the City of San Diego LCP Amendment No. 2-02 may be obtained from Ellen Lirley, Coastal Planner, at (619) 767-2370.

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## **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.

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

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

### **B. STANDARD OF REVIEW**

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

### **C. PUBLIC PARTICIPATION**

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

## **PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS**

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

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

### **STAFF RECOMMENDATION OF REJECTION:**

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

### **RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:**

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

## **PART III. FINDINGS FOR REJECTION OF THE CITY OF SAN DIEGO LCP AMENDMENT NO. 2-02 IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED**

### **A. AMENDMENT DESCRIPTION**

The City is currently requesting two changes to its LCP Implementation Plan (IP), one that would rezone approximately 10.3 acres to Light Industrial (IL-2-1) to allow light industrial development of a portion of a 46.9-acre site now in its ownership, and the other to rezone the remainder of the site (36.6 ac.) to OC-1-1, the City's most restrictive open space zone. Both zones are existing, and no changes to zone requirements are proposed.

### **B. SUMMARY FINDINGS FOR REJECTION**

The Commission rejects the proposed rezoning because it is improperly before the Commission at this time. The Commission was not given their legally-mandated opportunity to review and act on the original 1996 rezoning of over half of the 104.2 acre total site. Moreover, the City's 1996 action should have included an amendment to the certified Mira Mesa Land Use Plan to allow the proposed locations of development on

the property. It is very likely that the amendment request for development of the southern portion of the site, if it had been submitted to and approved by the Commission, would only have been approved in a form that would have required corresponding and mitigating changes to the land use designation in the northern portion of the site, thus changing the current standard of review applicable to the rezones presently proposed. Moreover, since the Commission never approved the 1996 rezone, the legality of the subdivision dependent on that rezone, Corporate Research Park, may be in question.

### **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.

#### 1. IL-2-1 (Light Industrial) Zone:

a) Purpose and Intent of the Ordinance. The purpose of the IL zones is to permit a wide range of manufacturing and distribution activities, including non-industrial uses in some instances. The IL-2-1 Zone allows a mix of light industrial and office uses, with limited commercial.

b) Major Provisions of the Ordinance. Major provisions include:

- a list of uses permitted by right, allowed with discretionary review and prohibited in the zone
- development regulations addressing lot size, setbacks, height and floor area ratio
- parking and landscaping standards

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

The project site is located within Mira Mesa, which is a community of the North City segment of the City of San Diego LCP. The land use plan (LUP) as a whole was last updated and certified by the Coastal Commission on November 18, 1993. Since that time, there have been no changes in basic adopted policy language. The Sensitive Resources and Open Space System of the certified LUP includes many policies addressing protection of the entire Mira Mesa open space system, including those quoted below:

Policy 1.a. states:

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

Policy 4.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.k. states:

Coastal Sage Scrub: Coastal Sage Scrub shall be protected from grading or impacts from development. Encroachment into this habitat type, or mitigation for any impacts upon it, shall comply with the Resource Protection Ordinance *{since replaced with the Environmentally Sensitive Lands Regulations}* and the U.S. Fish & Wildlife Service recommendations. If these overlap, the policy that requires the higher degree of protection will take precedence.

Policy 4.m. states:

Grasslands: Grasslands that serve as raptor foraging areas or are physically linked to other sensitive habitat shall be preserved in, or restored to, their natural state.

The site currently proposed for rezoning to a light industrial zone is approximately 10.3 acres in size, and is a portion of the 46.9 acres dedicated as open space in 1996. The majority of the 10.3 ac. site is a mixture of native and non-native grasslands on the flatter portion, with coastal sage scrub around the sloping perimeter; the remainder appears to have been recently disturbed and consists of invasive exotics. The site consists of two flatter mesa top areas with slopes greater than 25% gradient around three sides of each potential building site. The biological report for this proposal identifies the flatter areas as grasslands and the steep slopes as coastal sage scrub. At the local level, the proposed rezone is accompanied by a non-appealable, City-issued coastal development permit (CDP) for a specific development on the site. The biological report notes the presence of a gnatcatcher very close to, if not within, the proposed grading envelope and in an area possibly impacted by drainage facilities in the development already approved by the City. Although the biology report states no impacts to sensitive species will occur, the map of Vegetation Communities and Sensitive Biological Resources identifies three sensitive plant species within the proposed grading envelope; these are coast barrel cactus (*Ferocactus viridescens*), Palmer's grappling hook (*Harpagonella palmeri*) and Ashy spike moss (*Selaginella cinerascens*).

The cited LUP policies clearly intend that sensitive biological resources be as fully protected as possible, both on slopes and flatter areas. The City-approved rezone applies light industrial zoning (IL-2-1) to the entire 10.3 acre site. In addition to the IL-2-1 Zone regulations, the Environmentally Sensitive Lands regulations (ESL) contained in the certified LCP Implementation Plan (Land Development Code) would also apply to development of the site. Pursuant to the ESL, the majority of the environmentally sensitive habitat area (ESHA) on steep slopes would be protected from grading, development and Zone 1 brush management measures. In addition, portions of the 10.3

acre site are within the City's Multiple Habitat Planning Area (MHPA). The MHPA lands include both non-native grasslands and coastal sage habitats.

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

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

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

In this case, items (a), (c), (d), and (f) all apply to the subject site. Thus the ESL regulations would be applicable to any future development regardless of the zone. Although some level of development might still be appropriate under these site constraints, and industrial zoning is consistent with the currently-certified LUP land use map designation for the area, the Commission cannot approve the proposed rezone. The LUP **as a whole** is the standard of review, which includes all applicable policies as well as the land use designations for the other portions of the site. As currently proposed, the rezone does not provide maximum protection to the identified on-site resources. Less environmentally damaging alternatives for future development have been identified, and the rezone should reflect those reduced alternatives which would retain a portion of the 10.3 acres in open space. Because those alternatives exist, to change the zoning on the entire 10.3 acres to industrial would be inconsistent with the LUP vegetation/habitat protections, and thus, this change would "not conform with" the cited vegetation/habitat

protection provisions of the LUP. The land use map designations in the LUP are not the only LUP provisions; any Implementation Plan change must be consistent with all of the provisions of the LUP.

The City's actions in 1996, subdividing the original 104.2 acre site and approving a companion CDP for nine industrial lots and one open space lot, required Commission approval of the proposed rezone under state law. Had the matter been properly submitted to the Commission in 1996, the Commission may not have found the proposed rezone consistent with the certified LUP. The certified LUP designated a portion of the southern part of the site (where the City approved the nine industrial lots) for open space. Based on the biology report for that original development, the area designated for open space contained fragments of coastal sage scrub, along with areas of grasslands. The following excerpts are from Page 9 of that report (A Biological Resources Survey Report for the Corporate Research Park Project CIP 39-203.0 City of San Diego, as updated in April, 1995):

“In many areas, the scrub forms a broad ecotone with non-native and native grassland habitats, and has shown considerable expansion into formerly disturbed areas between 1990 and 1994.”

“A large, more-or-less contiguous block of sage scrub occupies the northern end of the subject site. Smaller fragments of scrub are found in other areas, especially through the center of the property.”

“The existence of most of the non-native grassland habitat on this site has resulted from long-term grazing, which had been discontinued for at least ten years at the time of the most recent site reconnaissances.”

“Most of the non-native grassland on this site probably supported Diegan Coastal Sage Scrub or native Southern California (*Stipa*) Grassland prior to agricultural usage. This is indicated by the presence of persistent native grassland taxa, including Foothill *Stipa* and Purple *Stipa* grasses (*Stipa lepida*, *S. pulchra*), Common Checkers (*Sidalcea malvaeflora*), *Stachys* (*Stachys rigida*), Golden Stars (*Bloomeria crocea*) and others in numerous areas. By 1994, native grasses and herbs had begun to actively recolonize ruderal areas, although they do not constitute a discrete habitat at present. (i.e., 1995) The areas of most active grassland self-restoration are adjacent to expanding Diegan Coastal Sage Scrub, especially on lower slopes.”

A new biological survey (Biological Technical Report for the Headquarters Point Property) was prepared specifically to address the 10.3 acres proposed to be rezoned for industrial use. Both of these reports were reviewed by the Commission's ecologist, and his comments are attached. To summarize, the staff ecologist determined from the first report that the coastal sage scrub and native perennial grasslands meet the definition of Environmentally Sensitive Habitat Area (ESHA) under the Coastal Act because such habitats are rare and because they support sensitive species. He further determined that the non-native grassland, because it supports the Palmer's Grapplinghook, may also rise

to the level of ESHA. Furthermore, the descriptions in the 1999 report are very similar to those in the earlier document, although the 1999 study focuses solely on the 10.3 acres, whereas the 1995 report addressed the entire 104.2 acre property. The ecologist believes the 1999 report corroborates the ESHA conclusions reached from the 1995 report.

Based on these conclusions, the Commission, had it been given the opportunity to act on the 1996 rezone, as the law required it to do before the rezone could legally take effect, would likely have found the proposed rezoning inconsistent with the certified LUP. Had the City then properly submitted an amendment to both the LUP and IP, the Commission may have approved revised locations for development and open space based on resources existing at the time. The following two scenarios seem most likely: 1. Consistent with the companion CDP approved by the City in 1996, and based upon then common interpretations of the ESHA protections required in Section 30240 of the Coastal Act, the LUP amendment could have proposed, or the Commission could have required, that the open space designated on the southern part of the site be redesignated for industrial use and the industrially-designated area on the northern part of the site be changed to open space, with rezonings to match these designations. This scenario would have allowed destruction of some ESHA in the southern part of the site as was not uncommon in 1996, but would have mitigated this impact with preservation of a greater amount of open space and habitat on the northern part; or, 2. Consistent with existing biological resources on the ground, the Commission may have denied any LUP amendment and required rezonings consistent with the already-certified plan. This scenario would have protected the ESHA in place and not have tried to reconcile losses with gains. In any event, it does not appear probable that the Commission would have simply approved the rezone as submitted, due to its inconsistency with the certified LUP and the fact that the rezone would have enabled development that is inconsistent with the Hillside Review (HR) regulations in place at the time.

As for the current situation, the Commission is being asked to review the rezone on the northern part of the site in a vacuum, without addressing the site as a whole, or considering the ongoing violation of the Coastal Act resulting from the City's failure to submit their original action in 1996. Commission staff has advised the City to withdraw the entire amendment request, reprocess it properly at the City, then resubmit the entire proposal to the Commission. The City, however, preferred to go forward with just the northern portion at this time, and City representatives say they will resubmit the southern portion after the Commission acts on this part. This will force the Commission to address the southern portion in a vacuum, or, if the City fails to resubmit the 1996 action, may result in the unfortunate circumstance of the LCP violation being addressed through a separate enforcement action. Either of these could result in restoration of those portions of the southern part of the site that are designated open space in the currently-certified LUP. This could then result in the loss of at least one industrial lot and would, of course, have to involve the current owner, or owners, of the Corporate Research Park portion of the property.

In conclusion, the Commission cannot approve the current IP plan amendment, as submitted. Since an amendment to the LUP which would support development and open space in the locations approved by the City, has not been reviewed or approved by the

Commission for conformity with the Coastal Act, the currently-certified version of the Mira Mesa Community Plan cannot be considered the appropriate legal standard of review by which to judge the current request. Review and approval of the proposed rezones for the northern portion of the site only, will result in a net loss of resource and habitat value in the coastal zone.

2. OC-1-1 Zone:

a) Purpose and Intent of the Ordinance. The purpose of the OC zone is to protect natural and cultural resources and environmentally sensitive lands. Uses permitted in this zone are limited to preserve the natural character of the land and implement the land use plans.

b) Major Provisions of the Ordinance. Major provisions include:

- natural resource protection and some forms of passive recreation are the only uses permitted by right
- interpretive centers and satellite antennas may be allowed with discretionary review

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

Although the OC-1-1 is the most appropriate zone for conserving habitat, Commission action on the entire property must occur first to establish the appropriate boundary between open space and adjacent uses, if any adjacent uses are ultimately permitted. Thus, approval of the proposed open space rezone would be premature for the same reasons noted in the findings above. Any such action would permanently delineate the line between development and open space, when it is not entirely clear where that line should be. Moreover, such an action would address the northern portion of the site only, not taking into consideration the appropriate rezone and development of the southern portion of the 104.2 acre site. Therefore, the Commission finds the proposed open space rezone should be denied at this time. The OC-1-1 Zone is likely to receive Commission support, when the appropriate boundary is established and when it is acted upon in the context of the entire site.

**PART IV. 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 an LCP submittal or, as in this case, an LCP amendment submittal, to find that the approval of the proposed LCP, or LCP, as amended, does conform with CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended IP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §13542(a). In this particular case, the Commission cannot make such a finding. Alternatives exist which would result in a less-environmentally damaging LCP amendment.

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