

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
3575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370

**Wed 19a**

March 23, 2005

TO: COMMISSIONERS AND INTERESTED PERSONS

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

**SUBJECT: STAFF RECOMMENDATION ON CITY OF CARLSBAD MELLO II
LCP SEGMENT MAJOR AMENDMENT NO. #1-04B (Kirgis), for
Public Hearing and Possible Commission Action at the Meeting of April
13-15, 2005)**

SYNOPSIS

The LCP amendment submittal includes six separate components involving changes to both the certified LCP land use plan and the implementation plan. The amendment was filed on August 18, 2004. Four of the components were approved in October 2004. The open space land use plan change and rezone for the Kirgis property located south of Cannon Road and adjacent to Kelly Ranch are addressed in this staff report. The rezone for the Cannon Lift Station, LCPA #1-04D, is not part of this staff report and will be scheduled for Commission hearing at a later date. A one-year time extension for Commission action on LCPA #1-04 was approved by the Commission on October 14, 2004. The last day for Commission action is November 18, 2005.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval of the proposed LCP amendment as submitted. The proposed land use and zoning designations of open space correspond to the least sensitive 25% of the site adjacent to the existing Kelly Ranch development. The proposed line between open space and developable area is consistent with the standards in the certified LCP applicable to future development of this site. The LCP includes the City of Carlsbad Habitat Management Plan (HMP) which establishes reasonable development area and an open space habitat preserve for the City. The HMP, including the standards applicable to future development to carry out the provisions of the HMP, has been reviewed by the Commission and found to meet the requirements of Section 30240 and 30250 of the Coastal Act.

The appropriate resolutions and motions begin on page 3. The findings for approval of the Land Use Plan Amendment as submitted begin on page 4; the findings for approval of the Implementation Plan Amendment as submitted begin on page 6.

ADDITIONAL INFORMATION

Further information on the submittal may be obtained from **Bill Ponder** at the San Diego Area Office of the Coastal Commission at 7575 Metropolitan Drive, Suite 103, San Diego, CA 92108-4402, (619) 767-2370.

PART I. OVERVIEW

A. LCP HISTORY

The City of Carlsbad certified LCP contains six geographic segments as follows: Agua Hedionda, Mello I, Mello II, West Batiquitos Lagoon/Sammis Properties, East Batiquitos Lagoon/Hunt Properties and Village Redevelopment. Pursuant to Sections 30170(f) and 30171 of the Public Resources Code, the Coastal Commission prepared and approved two portions of the LCP, the Mello I and II segments in 1980 and 1981, respectively. The West Batiquitos Lagoon/ Sammis Properties segment was certified in 1985. The East Batiquitos Lagoon/Hunt Properties segment was certified in 1988. The Village Redevelopment Area LCP was certified in 1988; the City has been issuing coastal development permits there since that time. On October 21, 1997, the City assumed permit jurisdiction and has been issuing coastal development permits for all segments except Agua Hedionda. The Agua Hedionda Lagoon LCP segment is a deferred certification area until an implementation plan for that segment is certified. The subject amendment requests affects the Mello II LCP segment.

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 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.

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 each resolution and a staff recommendation are provided just prior to each resolution.

I. MOTION

I move that the Commission certify the Land Use Plan Amendment #1-04B for the City of Carlsbad LCP Mello II Segment as submitted.

STAFF RECOMMENDATION TO CERTIFY:

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

RESOLUTION TO CERTIFY LAND USE PLAN AMENDMENT AS SUBMITTED:

The Commission hereby certifies the Land Use Plan Amendment for the Mello II Segment of the certified LCP as submitted and adopts the findings set forth below on grounds that the land use plan 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 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 and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the land use plan.

II. MOTION

I move that the Commission reject the City of Carlsbad Implementation Plan Amendment #1-04B as submitted.

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a NO vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted 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 IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby certifies the Implementation Program Amendment for the Mello II Segment of the certified LCP as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan and certification of the Implementation Program Amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

**PART III. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD
MELLO II LAND USE PLAN AMENDMENT, AS SUBMITTED**

A. Amendment Description. The 21.9-acre site known as the Kirgis property is located south of Cannon Road and adjacent to Kelly Ranch development in Carlsbad. It has a current LCP land use designation of Residential Low (RL, 0-1.5 units per acre). Because of on-site and nearby off-site coastal resources (coastal sage scrub, southern maritime chaparral), the site is a "standards area" as described in the certified Habitat Management Plan (HMP) which is a part of the Carlsbad LCP. The standards in the HMP/LCP restrict the Kirgis site to development within 25% of the gross area and requires 75% of the site be preserved as open space. The land use plan amendment proposes to designate approximately 16.5 acres as open space on the Mello II LUP map to meet the HMP/LCP requirement.

The project site is within the Mello II LUP segment. A tentative map for development of the site has been approved by the City. With the exception of the Agua Hedionda Lagoon segment, the City of Carlsbad has a certified LCP. The standard of review for Land Use Plan amendments is the Chapter 3 policies of the Coastal Act.

B. CONFORMITY WITH CHAPTER 3 OF THE COASTAL ACT

1. Environmentally Sensitive Habitat Areas. The Coastal Act provides:

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 certified City of Carlsbad LCP land use plan (LUP) has been amended to incorporate the City's Habitat Management Plan (HMP). The HMP was developed to meet the requirements of the Coastal Act, the Endangered Species Act and the Natural Communities Conservation Planning (NCCP) process. The Kirgis site is designated as a "standards" area in the certified HMP/LCP. The certified LUP includes Coastal Act Sections 30233 and 30240 as applicable standards of review for development within and adjacent to wetlands and other environmentally sensitive habitat areas. In addition, the HMP and certified LUP contain habitat protection requirements and conservation standards applicable to certain properties within the Carlsbad coastal zone (most of which are undeveloped), to concentrate future development adjacent to already-developed areas and protect slopes greater than 25% grade and scenic natural landforms.

In its review of the Carlsbad HMP/LCP amendment, the Commission reconciled the conflict between the policies of the Coastal Act that protect environmentally sensitive habitat area (ESHA) and those that require concentration of development where it will not have significant adverse effects on coastal resources. The Commission found, on balance, that approval was most protective of significant coastal resources because the HMP would allow for concentration of development and creation of a habitat preserve that addresses the long-term viability and conservation of sensitive species while allowing some impacts to ESHA to occur. Although implementation of the HMP/LCP will result in some loss of native habitat and listed species throughout the region, in association with loss due to incidental take outside the preserve area, the potential losses to the habitat would be considerably higher without the HMP. Through application of the HMP mitigation requirements, there will be no net loss of ESHA within the coastal zone. Thus, the Commission certified the HMP/LCP amendment as consistent with Sections 30240 and 30250 of the Coastal Act.

The "standards" areas identified in the HMP involve specific properties within the City that are located in the biological core and linkage areas identified in the County Multiple Habitat Conservation Plan (MHCP). The City's "standards" areas are focused geographically, using the Local Facilities Management Zones identified in the City's Growth Management Plan. "Standards" properties have conservation goals and standards which allow at least 25% development of the site, but which provide for minimum conservation of 67% of coastal sage scrub and 75% of gnatcatchers on each site. Several areas have significantly higher standards for greater protection of individual resource areas. Emphasis is placed upon creation of preservation corridors and linkage to the larger MHCP habitat areas. Projects proposed within the "standards" areas also require additional consultation with the City and the wildlife agencies to determine whether the project complies with the HMP.

The Kirgis site has a large amount of intact coastal sage scrub and southern maritime chaparral habitat. It also connects to other existing open space preserve areas in the area (Kelly Ranch, Veterans Park). In LCPA #2-99D (Kelly Ranch), the Commission established an open space preserve that ties upland portions of the 433-acre Kelly Ranch (canyons and dual criteria slopes) with low lying wetland areas associated with the south shore of Agua Hedionda Lagoon. The connecting of these habitats creates a viable wildlife corridor in this area. In its approval, the Commission found the Kelly Ranch

Open Space Preserve was an environmentally sensitive habitat area requiring priority protection under the Coastal Act.

Veterans Park is immediately south of the Kirgis site and is owned by the City of Carlsbad. It is identified as a "Hardline Conservation Area" in the HMP/LCP. Hardline conservation properties have been designated in the HMP with specific development/conservation footprints. A property contains a "hardline" if, in association with a future development plan, a line can be drawn to establish the habitat preserve boundary on the property. All together, existing and proposed "hardline" designated sites extend in a north/south corridor from near the Carlsbad golf course along Palomar Airport to Agua Hedionda Lagoon in the coastal zone, a distance of almost 2 miles. The Kirgis site is the only "standards" designated site in this corridor, which underscores its importance not only as an individual site that contains abundant coastal resources, but as a link in a larger plan to protect environmentally sensitive habitat in Carlsbad.

The 16.5-acre open space lot that is required on the site protects the site's most sensitive resources and represents 75% of the gross area of the property. This area is designated as open space in the proposed LUP amendment. The least sensitive 25% of the property is proposed for residential use generally on disturbed non-steep slopes adjacent to existing developed area associated with the Kelly Ranch development to the north. Based on the above, the Commission finds that the proposed designation of open space on this site is consistent with the provisions of the certified HMP/LCP and, thus, with Sections 30240 and 30250 of the Coastal Act.

PART IV. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD
MELLO II IMPLEMENTATION PLAN AMENDMENT #1-04B AS
SUBMITTED

A. AMENDMENT DESCRIPTION

The proposed amendment will replace the current zoning of One family residential (R-1-30,000) for the entire site with the Open Space (OS) zone applied to those portions of the site that have been identified as containing sensitive coastal resources and corresponding to the proposed Open Space designation in the LUP. The residentially designated portion of the site will remain zoned R-1-30,000 in the proposed LCP amendment.

B. FINDINGS FOR APPROVAL

1. Purpose and Intent of the Ordinance.

- a. Open Space Zone. To provide for open space and recreational uses which have been deemed necessary for the aesthetically attractive and orderly growth of the community. It is used in conjunction with publicly owned property such as parks, open space, recreation areas, civic centers and other public facilities of a similar nature. The zone also designates high priority resource areas at time of development that,

when combined would create a logical open space system for the community.

b. R-1-30,000 Zone. To implement the residential low density (RL), residential low-medium density (RLM) and residential medium density (RM) land use designations of the Carlsbad general plan; and 2. Provide regulations and standards for the development of one-family dwellings and other permitted or conditionally permitted uses.

2. Major Provisions of the Ordinance.

a. Open Space Zone. The open space zone allows the following uses and structures: beaches and shoreline recreation, bicycle paths, horse trails, open space easements, public parks, City picnic areas and playgrounds, public access easements, scenic and slope easements, transportation rights-of-way, vista points, agricultural uses (field and seed crops, truck crops, horticultural crops, orchards and vineyards, pasture and rangeland, tree farms and fallow lands). Permitted accessory uses and structures include public restrooms, clubhouses, parking areas, barbecue and fire pits, playground equipment, stairways, patios, changing rooms, pool filtering equipment, fencing and other accessory uses required for the conduct of the permitted uses. Uses allowed by conditional use permit include group or organized camps, marinas, playfields and athletic fields, public facilities, recreational campgrounds, public stables and riding academies, golf courses, swimming pools, tennis courts, private playgrounds and picnic areas, other related cultural, entertainment and recreational activities and facilities and stands for the display and sale of aquaculture products grown on the premises. There is no minimum lot area established for the open space zone. No building or structure in the zone shall exceed thirty-five feet in height unless a higher elevation is approved as a conditional use permit by the Planning Commission.

b. R-1-30,000 Zone. The major provisions of the ordinance are to identify permitted and conditional uses and design and development standards for large lot single-family development.

3. Adequacy of the Ordinance to Implement the Certified LUP Segments.

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified Land Use Plan (LUP). In the case of the subject LCP amendment, the City's Zoning Code serves as the Implementation Program for the Mello II segment of the LCP.

In this particular case, site-specific Policy 3-8.3 of the certified Mello II LUP requires that 75% of the Kirgis property be preserved and that development on the remaining 25% is clustered immediately adjacent to Kelly Ranch.

property with development clustered immediately adjacent to Kelly Ranch.

The above-described open space zone is proposed on the portion of the site that would cluster development immediately adjacent to the Kelly Ranch development (to the north) as required by the above policy. The most sensitive portion of the site would be considered habitat preserve and zoned open space to reduce direct habitat impacts, provide maximum buffer areas, and establish the widest feasible wildlife corridor that provides the most benefit for wildlife movement consistent with the HMP. In addition, the City's approval of the tentative map for the parcel requires dedication of an open space conservation easement over the area of the site designated and zoned as open space. However, while the proposed open space line conforms to the provisions of the HMP, the proposed open space zone would allow uses that are not conservation oriented or consistent with a habitat preserve.

As stated in the previous findings, the Carlsbad LCP has been amended to incorporate the City's Habitat Management Plan (HMP) which was developed to meet the requirements of the Coastal Act, the Endangered Species Act and the Natural Communities Conservation Planning (NCCP) process. The Commission found approval of the HMP is the most protective option for coastal resources based on the assumption that the habitat preserve and mitigation areas will be implemented as proposed, and properly maintained in perpetuity as habitat preserve. Should the habitat not be managed and maintained as designed, or if the required mitigation sites are not provided as proposed, the long-term benefits of the HMP for coastal resources would not be realized. To address these concerns, the City has included policies in the HMP and associated LUP which address establishment of the habitat preserve, funding, monitoring and management.

Interim preserve management requirements, as provided in the HMP, will cover the first three years following approval of the HMP, during which time a plan for permanent management will be developed by the City in cooperation with existing reserve managers, private owners, and the wildlife agencies. The preserve management plan must be approved by the City, the wildlife agencies and the Commission, and shall ensure adequate funding to protect the preserve as open space and maintain the biological values of the mitigation areas in perpetuity. Additionally, the preserve management plan is required to be incorporated into the Implementation Plan of the LCP through an LCP amendment within one year of Commission certification of the HMP as part of the certified LCP. Unfortunately the one-year goal has not been met as the HMP was certified by the Commission in August 2003 and the preserve management plan has not yet been submitted.

One of the major goals of HMP implementation will be to establish an open space conservation mechanism that will ensure protection of coastal resources in perpetuity. It is anticipated this mechanism will include a conservation oriented open space zone or overlay that will restrict uses within the habitat preserve to resource dependent uses which are more restrictive and protective of coastal resources than the current open space zone certified in the LCP. The Commission finds, in the absence of a resource-oriented conservation zone, the habitat preserve will be protected as open space through the Open

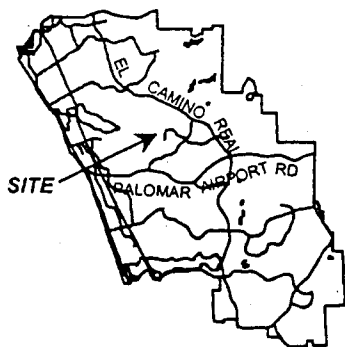
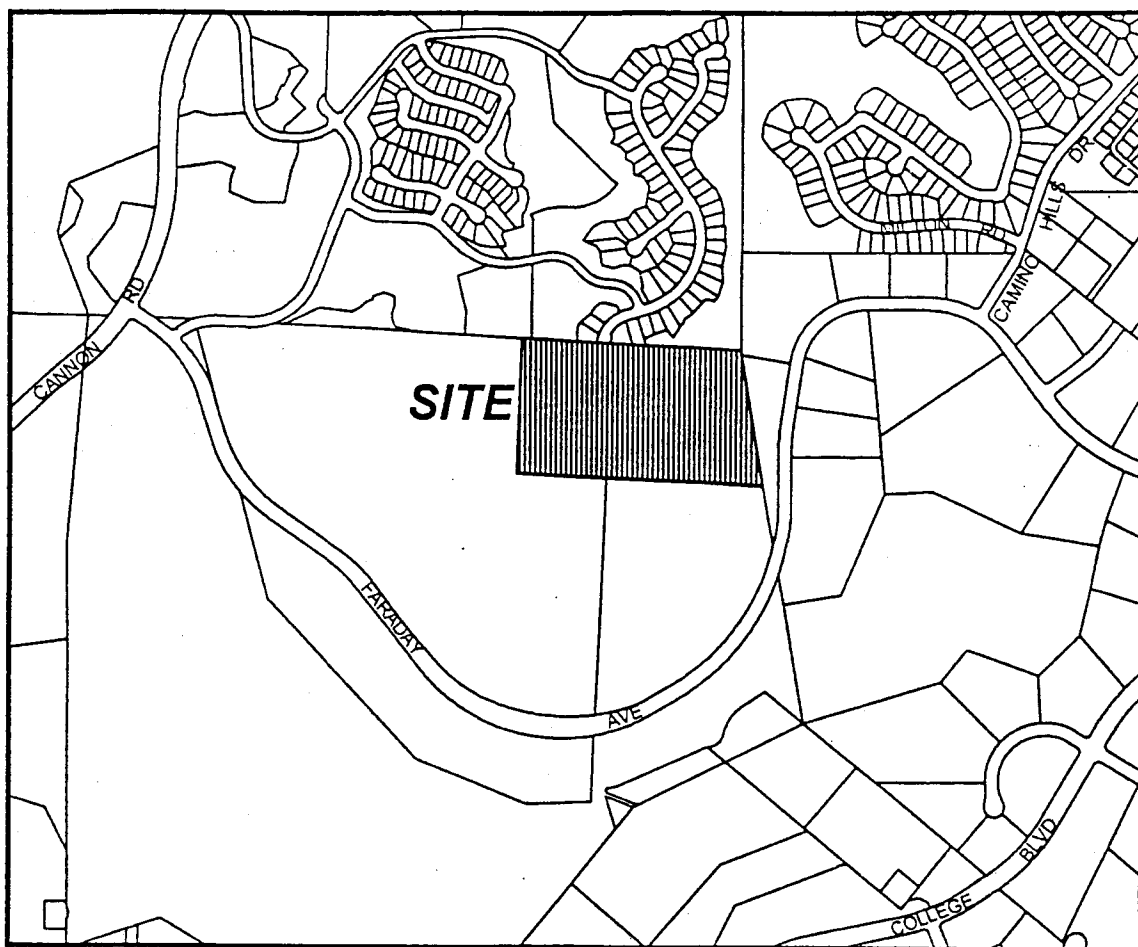
Space land use plan designation, which is controlling, and the conservation easement which must be recorded as a condition of approval by the City of the tentative map. The conservation easement prohibits private encroachment or development in dedicated open space; however, habitat restoration and enhancement is permitted.

In addition, the City has indicated as a requirement of the Implementation Agreement for the HMP, it is required to amend the Open Space Ordinance which will include a new open space conservation zone or overlay. This must be done within one year of approval of the HMP by the Resource Agencies. Although the Commission approved the HMP/LCP amendment in August 2003, the Resource Agencies did not give final approval until November 2004. The attached memorandum to the Community Development Director (See Exhibit 3 dated January 5, 2005), outlines the remaining tasks to complete implementation of the HMP. City staff has indicated a preserve management plan has been drafted and is awaiting City Council approval. In addition, the City expects to have an LCP amendment addressing the complete HMP implementation plan submitted to the Commission for approval by November 2005. With this understanding, the Commission finds the proposed open space zoning would adequately implement the HMP/LCP in the interim and is consistent with and adequate to carry out the certified LUP.

PART V. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENT 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). The proposed land use and zoning amendments will not result in adverse impacts on coastal resources or public access. 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.



KIRGIS TENTATIVE MA

GPA 03-01/ZC 03-01/LCPA 03-0
CT 02-06/PUD 02-02/CDP 02-05/HDP

EXHIBIT NO. 1
APPLICATION NO.
Carlsbad LCPA
No. 1-04B
Location Map

RECEIVED

MAY 18 2004

RESOLUTION NO. 2004-071

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

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RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING AN AMENDMENT TO THE MELLO II SEGMENT OF THE CARLSBAD LOCAL COASTAL PROGRAM TO BRING THE LAND USE DESIGNATIONS IN THE LOCAL COASTAL PROGRAM INTO CONFORMANCE WITH THE CARLSBAD GENERAL PLAN AND ZONING MAP ON PROPERTY LOCATED NORTH OF FARADAY AVENUE AT THE SOUTHERN TERMINUS OF TWAIN AVENUE IN LOCAL FACILITIES MANAGEMENT ZONE 8.

CASE NAME: KIRGIS TENTATIVE MAP

CASE NO: LCPA 03-01

WHEREAS, California State law requires that the Local Coastal Program, General Plan, and Zoning designations for properties in the Coastal Zone be in conformance; and

WHEREAS, Pergola, Inc., "Developer," has filed a verified application with the City of Carlsbad regarding property owned by Kirgis 1996 Trust, "Owner," described as

All that portion of Lot "F" of Rancho Agua Hedionda, in the County of San Diego, State of California, as shown on Partition Map thereof No. 823, filed in the Office of the County Recorder of San Diego County, on November 16, 1896

("the Property"); and

WHEREAS, said verified application constitutes a request for a Local Coastal Program Amendment as shown on Exhibit "LCPA 03-01 - Zoning" dated September 3, 2003 attached hereto and on file in the Planning Department, as provided in Public Resources Code Section 30574 and Article 15 of Subchapter 8, Chapter 2, Division 5.5 of Title 14 of the California Code of Regulations of the California Coastal Commission Administrative Regulations; and

EXHIBIT NO. 2
APPLICATION NO.
Carlsbad LCPA
No. 1-04B
Council Resolutions

1 WHEREAS, the Planning Commission did on the 3rd day of September
2 2003, on the 17th day of September 2003, and on the 5th day of November 2003 hold
3 duly noticed public hearings as prescribed by law to consider said request; and

4 WHEREAS, at said public hearings, upon hearing and considering all
5 testimony and arguments, if any, of all persons desiring to be heard, said Commission
6 considered all factors relating to the Local Coastal Program Amendment.

7 WHEREAS, State Coastal Guidelines requires a six week public review
8 period for any amendment to the Local Coastal Program; and
9

10 WHEREAS, the City Council of the City of Carlsbad, did on the 3rd day of
11 February, 2004, hold a public hearing to consider the recommendations and heard all
12 persons interested in or opposed to GPA 03-01/ZC 03-01/LCPA 03-01/CT 02-06/PUD
13 02-02/CDP 02-05/HDP 02-01,

14 NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of
15 the City of Carlsbad, as follows:
16

17 A. That the foregoing recitations are true and correct.

18 B. The State mandated six-week review period, started on July 10, 2003, and
19 ended on August 21, 2003. No comments have been received.

20 C. That based on the evidence presented at the public hearing, LCPA 03-01
21 is approved, based on the following findings, and subject to the following conditions:

22 **Findings:**

- 23 1. That the proposed Local Coastal Program Amendment meets the requirements
24 of, and is in conformity with, the policies of Chapter 3 of the Coastal Act and all
25 applicable policies of the Mello II segment of the Carlsbad Local Coastal
26 Program not being amended by this amendment, in that the proposed land use
27 designation changes will be consistent with the proposed development and
28 conservation of the property.

RONALD R. BALL
CITY ATTORNEY - CITY OF CARLSBAD
1200 CARLSBAD VILLAGE DRIVE
CARLSBAD, CALIFORNIA 92008-1989

2. That the proposed amendment to the Mello II segment of the Carlsbad Local Coastal Program is required to bring it into consistency with the City of Carlsbad General Plan Land Use and Zoning Maps.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Carlsbad, held on the 2nd day of March, 2004 by the following vote, to wit:


AYES: Council Members Lewis, Finnilla, Kulchin, Hall and Packard

NOES: None

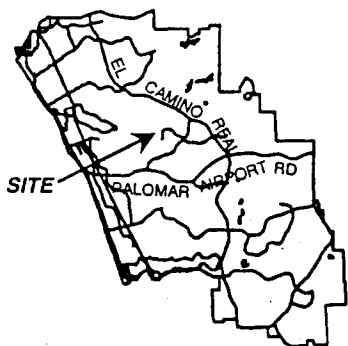
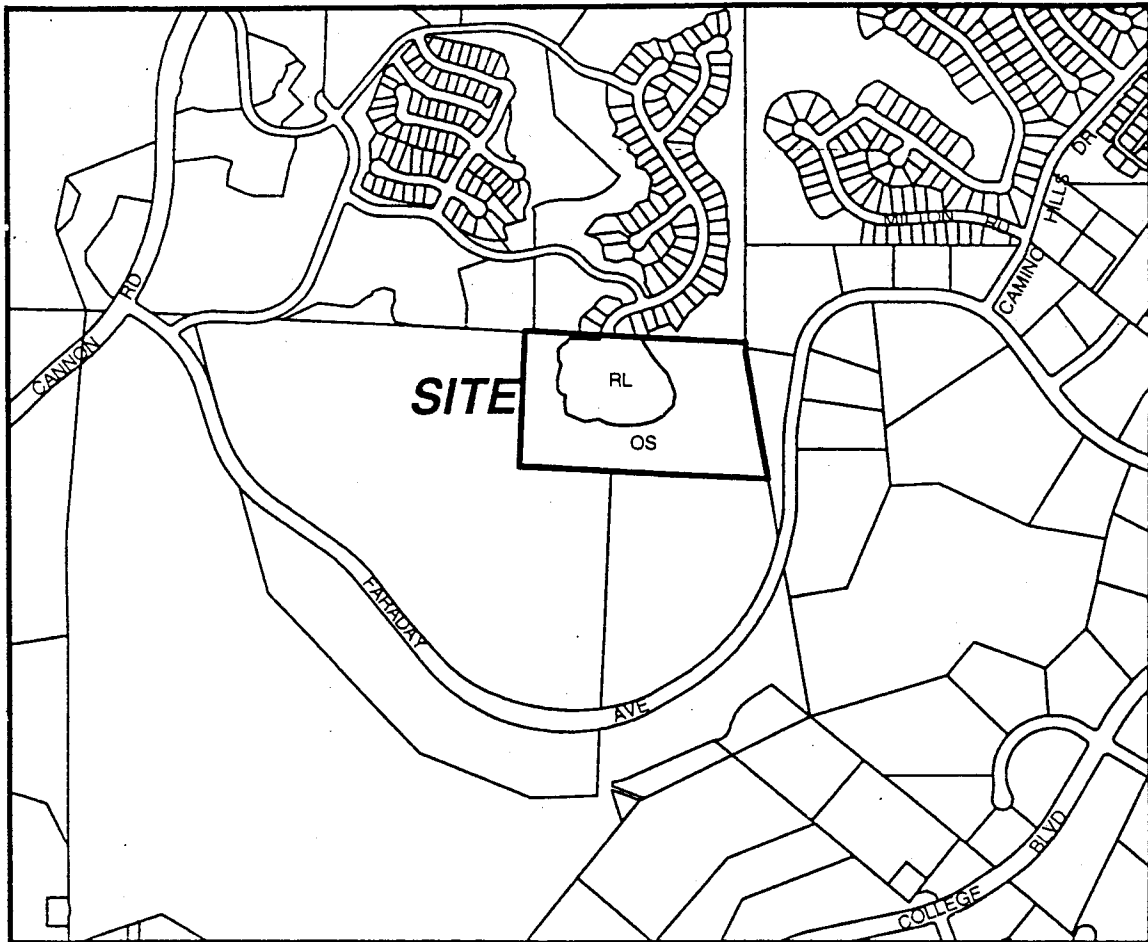
ABSENT: None



CLAUDE A. LEWIS, Mayor



LORRAINE M. WOOD, City Clerk



KIRGIS TENTATIVE MAP

GPA 03-01

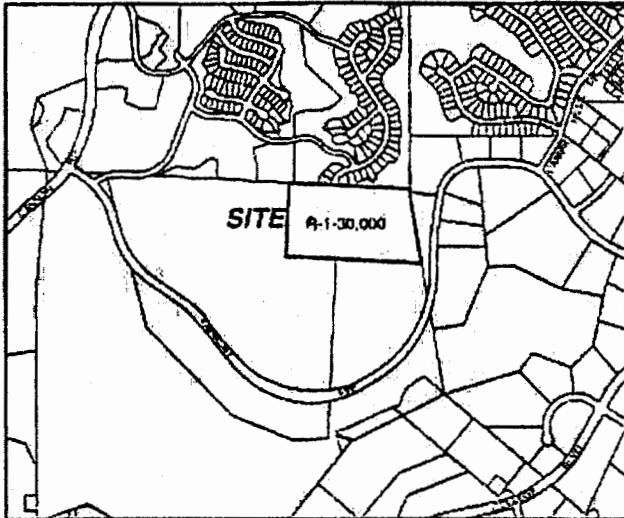
Carlsbad LCPA # 1-04B

LOCAL COASTAL PROGRAM

LCPA: 03-01

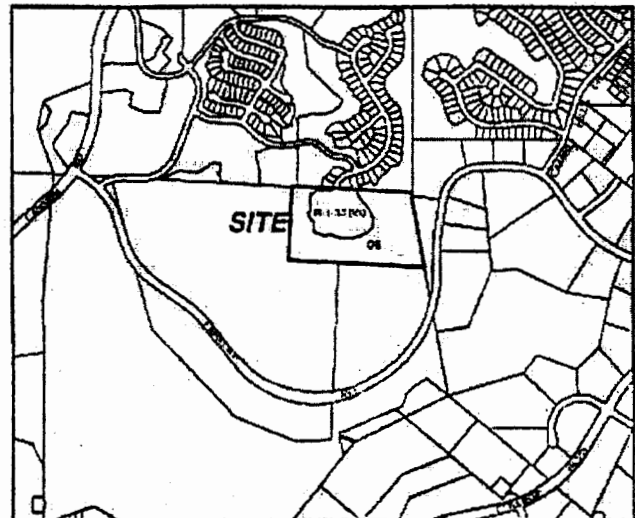
draft ☒ final ☐

ZONING



EXISTING

PROPOSED



Project Name: Kirgis Tentative Map			Related Case File No(s):
Property/Legal Description(s):			GPA 03-01/ZC 03-01/CT 02-06/PUD 02-02/CDP 02-05/HDP 02-01
All that portion of Lot "F" of Rancho Agua Hedionda, in the County of San Diego, State of California, as shown on Partition Map thereof No. 823, filed in the Office of the County Recorder of San Diego County, on November 16, 1896.			
LCP Map Designation Change			Approvals
Property:	From:	To:	Council Approval Date:
A. 212-010-03	R-1-30,000	R-1-30,000, OS	Resolution No:
			Effective Date:
			Signature:

43

Carlsbad LCPA # 1-04B

JANUARY 5, 2005

RECEIVED

MAR 10 2005

TO: COMMUNITY DEVELOPMENT DIRECTOR

FROM: Michael J. Holzmiller, Consultant

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

REMAINING TASKS TO COMPLETE IMPLEMENTATION OF THE HMP

Provided below is a summary of the remaining tasks to complete full implementation of the Habitat Management Plan (HMP). The tasks are listed in order of general priority. A detailed work plan for completing each task is presently being prepared.

- Task 1 Approval of Open Space Management Plan (OSMP) – This Plan identifies how the habitat preserve system will be managed, maintained and monitored. It quantifies the costs associated with managing the preserve system including the city-owned land in the preserve. The preparation and approval of this Plan is a condition of approval of the HMP by the Wildlife Agencies and the Coastal Commission. An Agenda Bill will be prepared to have City Council approve the Plan including the costs associated with the city-owned lands. The Council will also be asked to direct staff to negotiate with the Center for Natural Lands Management (CNLM) for maintenance of the city-owned lands. Once the negotiations have been completed, staff will return to the City Council with an Agenda Bill to approve a contract with CNLM and to determine the specific funding mechanism to pay for the maintenance. As part of their approval of the HMP, the Coastal Commission required that the Open Space Management Plan be approved by Commission after the city's approval and incorporated into the Local Coastal Plan. The State and Federal Wildlife Agencies have already reviewed the OSMP. It is proposed that the initial Agenda Bill go to City Council in early February 2005.
- Task 2 Adoption of Revised HMP Mitigation Fee Program – The purpose of this fee is to fund the HMP requirement to conserve habitat in the North County Multiple Habitat Conservation Plan (MHCP) Gnatcatcher Core Area located southeast of the city limits. The City Council approved the Fee Program in 2000 but it did not become effective because the Coastal Commission delayed approval of the HMP. The fee will be used to reimburse Real Estate Collateral Management (Villages of La Costa) for lands they purchased in the Core Area to assist in the requirement and to reimburse the city for acquisition of the additional land needed to complete the requirement. A number of changes have occurred since that time. Properties have developed which would have paid the fee had it been in effect. As part of approval of the HMP, the Wildlife Agencies gave the city credit for additional conservation which had occurred in Carlsbad which reduces the amount of remaining acreage which needs to be acquired in the Core Area. Because of these changes, it is necessary to have the city's consultant, Jun Onaka, readjust the fee amount and his nexus study. Once that is done, an Agenda Bill will be prepared to explain the program and its revisions and to have the City Council set a public hearing to readopt the fee. It should be noted that since the time the city received final approval of the HMP, Planning staff has been conditioning projects to pay the fee once it becomes effective.
- Task 3 Preparation of Staff Guidelines for Reviewing Proposals to Create or Restore Habitat in the Coastal Zone – One of the additional conservation standards added to the HMP as a result of Coastal Commission review and approval is to

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create or "substantially" restore habitat on an acre for acre basis for any habitat impacted in the Coastal Zone. Planning staff has received several project applications which involve the creation or restoration of habitat to meet this new conservation standard. The question of what qualifies for creation or substantial restoration is an issue. The city has the authority to make this determination and not the Coastal Commission or Wildlife Agencies. Guidelines are needed to assist the Planning staff and to make sure that the determination is applied consistently to all proposed projects in the Coastal Zone. This is a time critical task because of the project applications already submitted to the city. Staff will start working on these guidelines immediately and hopefully complete them this month (January 2005).

Task 4 Approval of Mitigation Bank Agreement for City-owned Land at Lake Calavera – The purpose of this agreement is to formalize the Wildlife Agencies approval through the HMP of allowing the city to get mitigation credits for public projects for the land around Lake Calavera which the city has put into the HMP preserve system. The State and Federal Government have guidelines for preparing and completing a mitigation bank agreement and staff is presently reviewing these guidelines. Once an agreement has been drafted, reviewed by the City Attorney's office and approved by the Wildlife Agencies, staff will prepare an Agenda Bill to have the Council approve the agreement and authorize the Mayor to sign it. It is hoped that the Agreement can be ready for Council approval within 3 months.

Task 5 Approval of Amendments to the General Plan – A condition of the HMP Implementation Agreement requires the city to amend the Land Use and the Open Space Elements of the General Plan to reference the HMP and to revise any existing goals, objectives and policies contained in the Elements to further adherence to and implementation of the HMP. The General Plan Amendments will require public hearings at Planning Commission and City Council. It is anticipated that the amendments will be drafted in January and that final approval by the City Council will occur by late April 2005.

Task 6 Approval of Amendments to the Zoning Ordinance – This task is also a requirement of the HMP Implementation Agreement. Besides creating a brand new chapter of the Zoning Ordinance relating to Habitat Protection and Incidental Take Permit procedures, it is anticipated that the following Chapters of the Zoning Ordinance may need to be revised:

- A. Chapter 21.33 – Open Space Zone
- B. Chapter 21.80 – Coastal Development Permits
- C. Chapter 21.95 – Hillside Development Regulations
- D. Chapter 21.110 – Floodplain Management Regulations
- E. Chapter 21.203 – Coastal Resource Overlay Zone.

The Grading Ordinance, Chapter 15.16 of the Municipal Code will also need to be revised. The drafting of these Zoning Ordinance Amendments will be much more complicated and time-consuming than the General Plan Amendments described in Task 5. It is anticipated that the drafting of the amendments will take about three months. The amendments will require public hearings at Planning Commission and City Council. It is anticipated that once the initial drafts are complete, the review and approval process will probably take up to six months. The Zoning Ordinance revisions will also require amendments to the

city's Local Coastal Program so they will not become effective in the Coastal Zone until the Coastal Commission approves them.

- Task 7 Follow-up to Staff Training – A ½ day workshop was conducted on December 21, 2004, to train Planning Department staff on the use of the HMP and its' associated approval documents. The workshop was very successful. A list of questions were raised at the workshop which still need to have a response. Responses are presently being worked-on and will be provided as soon as completed.
- Task 8 Educational Program – Educational materials about the HMP need to be prepared and distributed to citizens particularly as it relates to their assistance in the on-going management and maintenance of the habitat preserve system. An educational program was discussed with Marilyn Campbell about one year ago but it was put on hold until the HMP received final approval. It is very important that citizens understand the enormous investment the city and property owners have put into developing the preserve system and that they can do a lot to help maintain the preserve for the purpose it was intended. Contact with all the Homeowners Associations may be a good vehicle for initiating the educational process. A timeframe for this task has not yet been determined.
- Task 9 On-Going Implementation Task – A condition of the Implementing Agreement requires the city to prepare an annual report on HMP implementation and the status of management of the preserve system. The report must be prepared by December 1st of each year. A public meeting must then be held to discuss the findings of the report. Preparation of the first annual report should be started in the spring of this year.
- Task 10 Related Coastal Commission Task – When the Coastal Commission was reviewing the HMP, it was requested that the city concurrently process an update to all of the Local Coastal Program segments. All of the city's LCP segments are very old (25+ years) and have had numerous piecemeal amendments resulting in confusing provisions and a difficult format to understand. The city was able to convince the Coastal Commission to allow the HMP processing to go forward without the concurrent update of the Local Coastal Program. This was done with the city's promise to initiate a comprehensive update after the HMP was approved. This update will be a very time-consuming task and a determination of when to initiate the update needs to be discussed.

If you have any questions concerning this summary of tasks to complete the implementation of the HMP, please let me know.


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