

**CALIFORNIA COASTAL COMMISSION**

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September 20, 2007

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**TO: COMMISSIONERS AND INTERESTED PERSONS**

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

**SUBJECT: STAFF RECOMMENDATION ON CITY OF CARLSBAD MAJOR LCP  
AMENDMENT 3-06 (POINSETTIA PLACE) for Commission Meeting of  
OCTOBER 10-12, 2007**

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## **SYNOPSIS**

The subject LCP land use plan and implementation plan amendment was submitted and filed as complete on March 14, 2007. A one-year time extension was granted on May 11, 2007. As such, the last date for Commission action on this item is May 11, 2008. This report addresses the entire submittal.

## **SUMMARY OF AMENDMENT REQUEST**

The subject LCP amendment proposes changes to the land use designation and zoning on a 20.4 acre site located at the southeast corner of Cassia Rd. and the present terminus of Poinsettia Lane. The proposed amendment will affect both the land use and implementation plan components of the certified LCP. The LCP Land Use designation would be changed from Residential Low and Medium Density to Residential High and Medium-High Density and Open Space. The existing zoning would be changed from Limited Control (LC) to Residential Density Multiple (RD-M) and Open Space (OS).

The proposed LCP amendment is to enable development of a companion project approved by the City for subdivision of the site into two residential lots for the construction of 60 townhome and 30 stacked-flat residential units and three open space lots. The City of Carlsbad approval of the coastal development permit (CDP) for this project does not become effective until the subject LCP amendment is effectively certified by the Commission. Due to the presence of wetlands within 100 ft. of proposed development on the subject site, the City's action on the CDP is appealable to the Coastal Commission.

### **SUMMARY OF STAFF RECOMMENDATION**

Staff is recommending approval of the LCP amendment as submitted. The proposed line between open space and developable area is consistent with the standards applicable to future development of this site contained in the certified LCP, which includes the City of Carlsbad Habitat Management Plan (HMP). The certified Mello II LUP and the HMP include site specific standards that require a 25% developable area clustered on the disturbed portion of the property. This location will result in the least amount of impacts to the sensitive vegetation existing on site. Thus, the proposed land use plan and zoning designate the least sensitive portion of the site for residential use, with the remainder of the site proposed as open space, consistent with the above mentioned standards.

The appropriate resolutions and motions begin on Page 5. The findings for approval of the Land Use Plan Amendment as submitted begin on Page 6. The findings for approval of the Implementation Plan Amendment as submitted begin on Page 11.

### **BACKGROUND**

The Carlsbad HMP was prepared to satisfy the requirements of a federal Habitat Conservation Plan (HCP), and as a subarea plan of the regional Multiple Habitat Conservation Plan (MHCP). The MHCP study area involves approximately 186 square miles in northwestern San Diego County. This area includes the coastal cities of Carlsbad, Encinitas, Solana Beach and Oceanside, as well as the inland cities of Vista and San Marcos and several independent special districts. The participating local governments and other entities will implement their portions of the MHCP through individual subarea plans such as the Carlsbad HMP. Once approved, the MHCP and its subarea plans replace interim restrictions placed by the U.S. Fish and Wildlife Services (USFWS) and the California Department of Fish and Game (CDFG) on impacts to coastal sage scrub and gnatcatchers within that geographical area, and allow the incidental take of the gnatcatcher and other covered species as specified in the plan.

In its action on City of Carlsbad LCP Amendment No. 1-03B in July 2003, the Commission certified the HMP as part of the LCP and found it to meet the requirements of Sections 30240 and 30250 of the Coastal Act despite some impacts to environmentally sensitive habitat area (ESHA). The Commission found that, pursuant to Sections 30007.5 and 30200(b), certification of the HMP with suggested modifications was, on balance, the alternative that was most protective of significant coastal resources. Since certification of the HMP/LCP Amendment, the Commission has approved several LCP amendments similar to that proposed which would modify the residential and open space boundaries and to rezone parcels from the Limited Control (LC) Zone to Residential density Multiple (RD-M) and Open Space (OS).

Aside from the basic conservation requirements for the HMP, this particular project is located in Local Facilities Management Zone 21 and must conform with standards specific for this region. Standards areas in Zone 21 which are located between Linkage F and Core Area #6 in the HMP are intended to support preservation of sensitive habitat and enhance wildlife movement between these areas. The project is also located within Core Area #6 and is further restricted by standards developed for the specific site (RSWB). All of the standards and restrictions were developed to regulate development on vacant sites containing sensitive habitat.

#### **ADDITIONAL INFORMATION**

Further information on the submitted LCP Amendment #3-06 (Poinsettia Place) may be obtained from Toni Ross, Coastal Planner, at (619) 767-2370.

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## **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 request 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 the resolution and a staff recommendation are provided just prior to each resolution.

- I. MOTION:**     *I move that the Commission certify the Land Use Plan Amendment for the City of Carlsbad 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 City of Carlsbad 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 Implementation Program Amendment for the City of Carlsbad 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 AS SUBMITTED:**

The Commission hereby certifies the Implementation Program Amendment for the City of Carlsbad as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act, and certification of the Implementation Program 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 Amendment.

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

The subject LCP amendment proposes changes to the land use designation and zoning on a 20.4 acre site located at the southeast corner of Cassia Rd. and the present terminus of Poinsettia Lane. The proposed amendment will affect both the land use and implementation plan components of the certified LCP. The LCP Land Use designation would be changed from Residential Low and Medium Density to Residential High and Medium-High Density and Open Space. The existing zoning would be changed from Limited Control (LC) to Residential Density Multiple (RD-M) and Open Space (OS).

The proposed LCP amendment is to enable development of a companion project approved by the City for subdivision of the site into two residential lots for the construction of 60 townhome and 30 stacked-flat residential units and three open space lots. The project as proposed, includes 7 units operating as very-low income, and 7 units operating as low income affordable units. Additional improvements include various passive recreational uses areas, a common swimming pool, an RV storage yard, surface parking and landscaped areas.

The site is located south of Cassia Road and east of the intersection of Cassia and Poinsettia Lane. The site is vacant. The northern-most portion has been used for agricultural production and the remainder of the site is native vegetation with some disturbed areas. The site topography includes small hills and a flat sloping area. The northern and western portions of the site are highly disturbed from previous grading/clearing activities in 1993 when the area was used as a stockpile for excess dirt from the grading of Poinsettia Hills and Cassia Road. A detention basin in the west of the site holds runoff from the surrounding development.

Property to the north of the site, across Cassia Road, is developed as a multi-family townhome project. Property to the south of the site is vacant with native vegetation and is currently proposed for development as multi-family townhomes and stack-flat condominiums. East of the project site is open space and an apartment complex. Poinsettia Lane has been constructed up to the eastern edge of the property and is planned for extension to the east to make its final connection to El Camino Real.

## **B. CONFORMANCE WITH CHAPTER THREE POLICIES.**

**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 Commission finds, for the specific reasons detailed below, that the land use plan conforms with Chapter 3 of the Coastal Act or the goals of the state for the coastal zone with regards to the City of Carlsbad LCP Amendment #3-06.

### **1. Findings for Approval.**

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 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 (most of which are undeveloped) within the Carlsbad coastal zone, to concentrate development on portions of the site containing the least amount of sensitive habitat and limiting the developable area to 25%, requiring the remaining 75% be protected as Open Space. The Poinsettia Place site is designated as a "standards" area in the certified HMP/LCP, located within Core 6, Local Facilities Management Zone 21, and specifically referred to as the "RSWB" property.

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 preserve 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.

Since approval of the HMP/LCP Amendment, the Commission has approved several site-specific LCP Amendments, similar to that proposed, which would modify the residential and open space boundaries on a site consistent with the standards in the HMP, and would rezone parcels from Limited Control (LC) to Residential zones and Open Space. These include, but are not necessarily limited to, Carlsbad LCP Amendment Nos. 1-04B (Kiris); 1-05A (Yamamoto); 1-05C (North Coast Calvary Chapel); 2-01A (Lynn); 2-04B (Black Rail); and 2-06B (La Costa Village).

The subject site is within Local Facilities Management Zone (LFMZ) 21 and in the south-central portion of habitat Core Area 6 which contains significant amounts of southern maritime chaparral and approximately 12 pairs of gnatcatchers. Core Area 6 is located on both sides of El Camino Real and is connected to habitat Core Areas 4 and 8 through Linkage F to the west and to Core Area 7 by Linkage E and possibly to Core Area 5 by Linkage D to the east.

This specific site supports two sensitive vegetation communities: southern willow scrub and southern maritime chaparral. According to the biological technical report prepared for this development, the site supports .2 acres of southern willow scrub (riparian habitat) and 11.02 acres of southern maritime chaparral (SMC), 10.6 of which is undisturbed. This stand of mixed SMC is comprised of Del Mar manzanita and Nuttall's oak scrub amongst others. The biological report also documented two Coastal California gnatcatcher individuals located in the central and southeastern corner of the site.

The project will directly impact 6.78 acres of the 20.42 acres on site. These impacts will affect 1.44 acres of undisturbed southern maritime chaparral, .05 acres of disturbed southern maritime chaparral, .04 acres of disturbed southern maritime chaparral/coastal sage scrub ecotone and .2 acres of southern willow scrub. A total of 14% (1.53 acres) of southern maritime chaparral will be impacted; the majority of these impacts, as well as the impacts to southern willow scrub, are from the extension of Poinsettia Lane. These impacts were anticipated for this site during the certification of the City's HMP "standards", and would have been necessary regardless of the development type on this site. Thus, while the applicant is responsible for the mitigation associated with these impacts, the development envelope for the extension of Poinsettia Lane is not included when calculating the site's 25% maximum developable footprint, consistent with the provisions of the HMP. Further, the road extension is required as a project condition by the City and is part of the Circulation Element of the City's General Plan, thus the



impacts to maritime chaparral associated with the construction of Poinsettia Lane have already been acknowledged by the HMP.

Impacts to southern maritime chaparral and riparian habitats from the residential portion of the project have been minimized to the maximum extent practicable. In accordance with the HMP, there shall be a net loss of no more than 10% of southern maritime chaparral on a cumulative basis across the Local Facilities Management Zone (LFMZ) 21. While this individual project does generate impacts greater than 10% for this site, the cumulative impacts to LFMZ 21 are still less than 10%, thus consistent with the HMP. Seven Del Mar manzanita would be impacted by the project. As a result, the project will include transplanting the seven affected individuals into disturbed areas of the open space on site. Additional manzanita will be planted in the restoration areas to ensure the no net loss requirement of the HMP is met for this species. The project would also impact 30 of the 199 Nuttall's scrub oak that occur on site, 22 of these are associated with the extension of Poinsettia Lane. The project has focused the on-site construction in the northern portion of the site and will therefore avoid directly impacting the occupied Coastal California gnatcatcher habitat.

Impacts to southern maritime chaparral will be mitigated at a minimum 3:1 ratio, one third of which will consist of on-site mitigation. On-site mitigation will be maximized through the creation/restoration of southern maritime chaparral in 1.39 acres of disturbed habitat and .56 acres of non-native grassland in the open space preserve. Additionally, .02 acres are of disturbed southern maritime chaparral and .25 acres of disturbed southern maritime chaparral/coastal sage scrub ecotone will be restored to a higher functioning habitat. Impacts to riparian vegetation (.2 acres) will be mitigated at a 3:1 ratio (.6 acres), 100% of which will be purchased from a mitigation bank located within the coastal zone. Thus, because these mitigation values are fulfilled on-site and elsewhere in the coastal zone, the project is thus consistent with the HMP. All habitat preserved on-site will be placed in open space. A conservation easement and endowment will be established for the management, monitoring and reporting of the 11.5-acre open space lots in perpetuity.

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 in the areas of the City most suitable for 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, it was determined the potential losses to the habitat caused by piecemeal, uncoordinated development would be considerably higher without the HMP. Through application of the HMP mitigation requirements, there should be no net loss of ESHA within the coastal zone. Thus, the Commission certified the HMP/LCP

amendment as consistent, on balance, with Sections 30240 and 30250 of the Coastal Act. The findings addressing resolution of the policy conflicts between these Coastal Act sections in the Commission's action on LCP Amendment No. 1-03B are herein incorporated by reference and attached to this report as Appendix A.

At the time of approval of the HMP, the City and the Coastal Commission recognized that this subject site is highly constrained for development due to the presence of ESHA on the majority of the parcel. At the time, there was no development plan proposed; so, the site was approved as a "standards" area rather than a "hardline" property. Any property within the HMP that had a specific project associated with the site at the time of HMP approval was thoroughly reviewed. A hardline was developed to separate the sensitive habitat from the developable areas as best possible. Because this site had no specific project associated at the time, the HMP provided guidelines or standards by which development should proceed on this site. It was acknowledged that these guidelines may need to be slightly revised depending on the specifics of the project or the value of the habitat after thorough biological review. This review would be a component for any development project within the HMP, including this site.

Site-specific Policy 3-8.6 of the certified Mello II LUP applicable to the subject site requires that 75% of the subject property be preserved and that development on the remaining 25% be clustered on the northwestern portion of the property, as follows:

3-8.6 Assessor's Parcel No. 215-020-06 (RSWB) – Development shall be limited to a maximum of 25% of the property, not including Poinsettia Lane construction, and shall be clustered to the maximum extent feasible along disturbed portions of the property adjacent to Cassia Road and the future Poinsettia Lane extension. Impacts to the SMC habitat shall be minimized. A wildlife corridor linkage generally oriented north-south shall be provided on the eastern portion of the property designated to connect to neighboring properties with existing or potential wildlife corridor linkages. Impacts to native habitat shall require onsite mitigation through restoration and/or creation of habitat within the designated corridor linkage, in addition to any other required mitigation.

The proposed Open Space land use designation would apply to the southeastern 11.5 acres of the property and the residential designations apply to the northwestern 5.1 acres of the site. The remaining 3.8 acres of the site are associated with the construction of Poinsettia Lane and previously permitted on site grading mitigated by previous projects. These projects include the construction of Cassia Road and the previous construction of the Poinsettia Lane segment. Again, the grading associated with these developments, contained on this site (and having the residential land use designation), have already been mitigated for and in some cases are not developable by the applicant, thus these regions are not considered part of the applicant's 25% maximum development envelope (ref, Ex. #4). This credit given for the previously graded areas should have been included in the site standards, or should have been endorsed as an LCPA. However, in this case, these credits do not significantly change the project design, and because the project conforms

to all other standards for this site, the project as proposed remains consistent with the HMP. The proposed residentially designated areas represent 5.1 acres of a 20.4 acre site, or 25%. Therefore, the proposed line between open space and residentially designated area conforms to the grading limits of the site plan adopted by the City and is consistent with the above stated standards.

The area of the site proposed for residential designations is located in the northwestern portion of the site, with the Open Space (OS) area of the site being located in the southeastern portion of the site. The location of these designations clusters development to the maximum extent feasible along disturbed portions of the property adjacent to Cassia Road and the future Poinsettia Lane extension, thus consistent with the HMP. Further, the location of these designations allow for the preservation of a general north-south wildlife corridor, again, consistent with the HMP.

The certified HMP/LCP also requires a 20 ft. buffer between development and native upland vegetation. However, as certified, the HMP standards acknowledge that certain areas contain virtually 100% sensitive habitat. In these areas, development is still permitted on 25% of the site, although the 20 foot buffer requirement still applies, potentially creating a conflict. The HMP and Land Use Plan do not resolve whether the 20 foot buffer must be contained within the 75% open space area or 25% developable area. The proposed designations for this property limit the development to 25% of the site, preserving the remaining 75% as Open Space.

The LCP also includes a provision for reduced buffers with the incorporation of other design features, such as fencing. The project description includes a retaining wall and elevation change (slight slope) for a significant portion of the development, and a four foot tall chain link environmental fence for the entire development to provide separation between the development area and the open space, thus allowing alterations from the typically required buffer.

As proposed, the applicant has included a 20' buffer within the 75% preserved/Open Space area. This buffer does contain sensitive upland habitat. The certified HMP permits the 20' buffer to include low level fuel modification for brush management (Zone 3), even if such fuel modification would result in impacts to this habitat type. In this case, the development has incorporated design components into the project allowing for a reduced brush management zone, including boxed eaves, one hour fire resistant building walls, and requirements for regular irrigation and pruning and landscaping, and the prohibition of landscaping with any "high" or "moderate fuel species" as listed in the City of Carlsbad Landscape Manual (ref. Exhibit #8). Because of these design components, all required fuel modification is contained within the parking area for the development; therefore, no brush management would be required within the buffer. Because no fuel modification is required within this portion of habitat, no impacts to the buffer are predicted. Therefore, the 20' buffer can be considered a portion of the 75% preserve habitat. If any fuel modification were required within the buffer, those impacts to sensitive habitat could result in the buffer being included in the 25% developable area, rather than as part of the 75% preserve area.

Given the design of the site, the constraints on the site, the fencing and lack of fuel modification requirements within the buffer; the buffer in this particular case can be located within the 75% preserve area and is still consistent with the HMP as currently certified. However, the issue of whether the buffer requirement should be contained on a site's developable envelope or preserve area and any buffer's association with Zone 3 of the City's brush management requirements will be more specifically addressed by the HMP's Implementation Plan currently being reviewed by Commission staff.

In February 2007, the Commission addressed the issue of brush management within environmentally sensitive habitat through a City of San Diego LCP amendment. The Commission found that trimming and removal of vegetation associated with brush management could not be seen as a "no-impact" activity. Therefore, if brush management is required within habitat associated with the buffer for a development, these impacts would have to be included in the development envelope, as opposed to incorporated into the preserve sections of a subdivision.

The 20.4-acre property, as it is currently designated has a potential dwelling unit yield of 82.84 units. In addition to those 82.84 units, the City approved an allocation of 7.16 dwelling units from the city's Excess Dwelling Unit Bank. Of the 90 units associated with the development, 14 of these will operate as very-low and low income housing, thus consistent with the City's LUP.

Clustering the 90 dwelling units onto the northern 25% of the site results in higher density than allowed by the existing Residential Low Medium (RLM) and Residential Medium (RM) Land Use Plan designations. In order to accommodate the 90 dwelling units on the reduced building area, the Land Use Designations will be changed to Residential High (RH), Residential Medium High (RMH), and Open Space. The RMH (8-15 du/ac) designation will facilitate the townhome component of development (11.32 du/ac). The RH designation (15-23 du/ac) will facilitate the stacked-flat podium component of the development (25 du/ac). The density on this site (25 du/ac) exceeds the Residential High (RH) designation maximum (23 du/ac); however, the Land Use Plan Element acknowledges that in order to provide housing to lower income households, the density range may need to be exceeded. Furthermore, the development is concentrated on the least sensitive portion of the site and does not, in and of itself, cause adverse impacts beyond what would occur from a lower density of development across the site. Based on the above, the Commission finds that the proposed designation of open space and residential area 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  
IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED**

**A. AMENDMENT DESCRIPTION**

The proposed LCP amendment would change existing zoning from Limited Control (LC) to Residential Density Medium (RD-M) and Open Space (OS). The residential zoning is on the portion of the site corresponding to the Residential Medium High (RMH) and Residential High (RH) Land Use Designation. The open space zoning portion of the site corresponds to the southeastern area designated Open Space in the certified LUP, as amended through this 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, recreational areas, civic centers and other public facilities of 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. RD-M. The intent and purpose of the RD-M residential density-multiple zone is to 1) implement the residential medium density (RM) , residential medium-high density (RMH) and residential high density (RH) land use designations of the Carlsbad general plan; and 2) provide regulations and standards for the development of residential 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. RD-M (Residential Density Multiple Zone). The RD-M zone establishes a list of permitted uses subject to specific requirements and development standards established in the Zoning Code, including building height (35 ft.), setbacks, lot area, lot coverage, lot width, accessory structures, etc. The minimum lot area for single family dwellings is 6,000 sq.ft. The minimum lot area of a lot in the RD-M zone, when the zone implements the RMH or RH land use designations, as the subject site, shall not be less than 10,000 sq.ft., except that the joining of two smaller lots shall be permitted.

### 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.

The Poinsettia Place site is currently zoned L-C (Limited Control). The purpose of the L-C zoning designation is to provide an interim zone for areas where planning for future land uses has not been completed or plans for development have not been formalized. A number of L-C properties, many of which were formerly used for agriculture but are now becoming ready for development, exist within the coastal zone. The LUP does not specifically address the L-C zoning designations, or provide direction for a coordinated, orderly transition of these properties from agricultural and interim uses to residential development. Prior to and since approval of the HMP/LCP, the Commission has approved several LCP amendments similar to that proposed which delineate the areas suitable for residential development consistent with standards or hardlines identified in the HMP, with the remainder of the site designated as preserve open space.

In this particular case, site-specific Policy 3-8.6 of the certified Mello II LUP requires that 75% of the subject property be preserved and that development on the remaining 25% is clustered on the southern portion of the property, as follows:

3-8.6 Assessor's Parcel No. 215-020-06 (RSWB) – Development shall be limited to a maximum of 25% of the property, not including Poinsettia Lane

construction, and shall be clustered to the maximum extent feasible along disturbed portions of the property adjacent to Cassia Road and the future Poinsettia Lane extension. Impacts to the SMC habitat shall be minimized. A wildlife corridor linkage generally oriented north-south shall be provided on the eastern portion of the property designated to connect to neighboring properties with existing or potential wildlife corridor linkages. Impacts to native habitat shall require onsite mitigation through restoration and/or creation of habitat within the designated corridor linkage, in addition to any other required mitigation.

The residential zone is proposed on the disturbed portions of the property adjacent to Cassia Road and the future Poinsettia Lane extension (northwestern portion of the lot), as described above. The proposed open space would be located in the remaining portion of the lot (southeast) including a north to south wildlife linkage corridor.

As stated in the approval of the Land Use Plan findings for this development, the determination of the 25% development envelope and 75% Open Space and its relation to brush management and buffers has not been specifically addressed by the HMP. The HMP Implementation Plan would develop provisions for how buffers and brush management are addressed on sites containing a significant portion as sensitive habitat. Any deficiencies in the proposed HMP Implementation Plan can be addressed by the Commission in its review of the pending LCP Amendment for the HMP Implementation Plan. With this understanding, the Commission finds the proposed line for open space/residential zoning would adequately implement the HMP/LCP in the interim and is consistent with and adequate to carry out the certified LUP.

As discussed previously, the Carlsbad LCP was amended in August of 2003 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, are to cover the first years following approval of the HMP, during which time a plan for permanent management is to 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.

Toward this end, the City has conditioned the approvals for the future development of the site to require the property owner to do the following, to address the question of future management of the preserve open space:

- a. Select a conservation entity, subject to approval by the City, that possesses qualifications to manage the open space lot(s) for conservation purposes.
- b. Prepare a Property Analysis Record (PAR) or other method acceptable to the City for estimating the costs of management and monitoring of the open space lot(s) in perpetuity.
- c. Based on the results of the PAR, provide a non-wasting endowment or other financial mechanism acceptable to the Planning Director and conservation entity, if any, in an amount sufficient for management and monitoring of the open space lot(s) in perpetuity. The Conservation Easement shall provide that the non-wasting endowment shall transfer to the City if the City accepts the Irrevocable Offer to Dedicate fee title to the open space lot(s).
- d. Record a Conservation Easement over the open space lot(s) which includes an Irrevocable Offer to Dedicate fee title to the open space lot(s) in favor of the City.
- e. Prepare a permanent preserve management plan for the City's approval that will ensure adequate management, including preparation of the PAR and provision of the endowment, of the open space lot(s) in perpetuity.

The provisions for interim and long-term management of the preserve system were 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. The City has submitted LCP Amendment #1-06B (HMP Implementation Plan) and action by the Coastal Commission on this amendment is tentatively scheduled for the November 2007 hearing. Any deficiencies in the proposed HMP Implementation Plan can be addressed by the Commission in its review of the pending LCP Amendment of the HMP Implementation Plan.

Another one of the major goals of the HMP Implementation Plan will be to establish an open space conservation mechanism that will ensure protection of coastal resources in perpetuity. It was anticipated this mechanism would 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 will be required to amend the Open Space Ordinance which will include a new open space conservation zone or overlay. Further, the provision of a suitable open space zone or overlay would likely be part of any HMP Implementation Plan certified by the Commission as adequate to carry out the provisions of the certified HMP/LCP. 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 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). 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.

**Excerpt from Staff Recommendation on City of Carlsbad Major Amendment No. 1-03B (Habitat Management Plan) dated May 22, 2003 Pages 35-39 – Findings for Approval**

**A. Conflict Resolution/ESHA and Concentration of Development**

The Commission can approve an LUP amendment that is inconsistent with Chapter 3 policies only if it finds that the approval of the development raises conflicts between Coastal Act policies and that, on balance, the project as approved is most protective of significant coastal resources. The policy conflicts which arise in this LCP amendment request result from the fact that all areas determined to be ESHA would not be preserved, and concentration of development would not be achieved. In other words, to appropriately concentrate development and create a habitat preserve that addresses the long-term viability and conservation of identified sensitive species, some impacts to ESHA in the coastal zone must be accepted.

Section 30007.5 of the Coastal Act provides the Commission with the ability to resolve conflicts between Coastal Act policies. The Commission finds that Sections 30240 and 30250 of the Coastal Act must be considered when reviewing the proposed habitat impacts, and the development patterns that would result from implementation of the draft HMP.

Section 30240 states:

- (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.

Section 30250 of the Coastal Act requires that new development be concentrated in areas able to support it without adversely affecting coastal resources and states, in part:

- (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....

The Commission finds that the draft HMP would allow impacts to individual areas of ESHA for uses that are not dependent on the ESHA, which is inconsistent with Sections 30240 of the Coastal Act. However, the Commission finds that the coastal resources of the LCP area will be, on balance, best protected by concentrating allowable development adjacent to existing urban services and other developed areas. Additionally, greater benefit will be obtained from preserving large contiguous areas of the most environmentally sensitive vegetation and wildlife areas rather than preserving all fragmented pieces of habitat in place.

In order for the Commission to utilize the conflict resolution provision of Section 30007.5, the Commission must first establish that a substantial conflict exists between two statutory directives contained in the Coastal Act. In this case, as described above, the draft HMP is inconsistent with Coastal Act policies that protect environmentally sensitive habitat area. Although the City has proposed changes to the HMP and associated policies of the certified land use plan that would delete potential impacts to wetlands in the coastal zone, impacts to environmentally sensitive habitat would still result. However, to deny the LCP amendment based on this inconsistency with the referenced Coastal Act requirements would reduce the City's ability to concentrate proposed development contiguous with existing urban development, and away from the most sensitive habitat areas, as required by Section 30250. If the LCP amendment is not approved, dispersed patterns of development will occur that are inconsistent with Section 30250. Denial of the LCP amendment would also prevent the resource protection policies of the LCP from being upgraded to clearly protect ESHA that is not located on steep slopes.

The Commission notes that the HMP proposes mitigation for habitat impacts at ratios ranging from 1:1 to 4:1, depending on the habitat type. At minimum, 1:1 mitigation in the form of new creation is required for any impacts; additional mitigation may be in the form of substantial restoration, revegetation and/or acquisition. Since some of the existing habitat that potentially could be impacted is currently of low quality (e.g., fragmented, disturbed and/or invaded by non-native species), it should be noted that the replacement of such habitat in areas that are suitable and will be permanently monitored and managed may provide an environmental benefit that is superior to retaining all existing areas of native habitat in place.

After establishing a conflict among Coastal Act policies, Section 30007.5 requires the Commission to resolve the conflict in a manner that is most protective of coastal resources. In this case, the draft HMP would allow certain impacts to ESHA, including dual-criteria slopes. If modified as suggested, overall impacts to native habitat in the coastal zone would be reduced, because categories of habitat that are not currently protected would be protected, but impacts to ESHA would still occur. However, if mitigated as proposed, the replaced and protected ESHA will be located in areas that provide larger contiguous contributions to the proposed HMP preserve area, and will ensure that the critical wildlife movement corridors and largest populations of gnatcatchers within the coastal zone have sufficient areas of high-quality habitat for species survival.

In resolving the identified Coastal Act conflicts, the Commission finds that the concentration of development adjacent to existing urban development and infrastructure, and away from sensitive natural resources is, on balance, more protective of the land resources than to require that isolated areas of habitat be retained in an area adjacent to residential development. Therefore, the Commission finds that approval of the draft HMP, if modified as suggested, is on balance the most protective option for the relevant coastal resources, for the following reasons.

The HMP proposes to preserve large, contiguous blocks of habitat with the highest natural resource value relative to covered species, and to generally locate development away from these areas. In exchange for the benefits derived from a share of the incidental take authorized under the HCP, which will result in some impacts to gnatcatchers and associated adverse impacts to CSS, landowners must agree to place a majority of sensitive habitats on their properties into open space that will then become part of the permanent MHCP preserve.

Within the City of Carlsbad, approximately 8,800 acres of naturally-vegetated areas remain, or 36% of the City's total area, including approximately 3,315 acres of coastal sage scrub. In Planning Zones 19, 20 and 21, where the majority of undeveloped land in the coastal zone is located, approximately 60 acres of CSS remain. The populations of gnatcatchers within the City are important to the overall viability of the regional gnatcatcher population that will be addressed in the MHCP. As the municipality with the largest amount of gnatcatcher habitat within the MHCP, the populations represent a critical link in the distribution of the species throughout north San Diego County, particularly in the Carlsbad-Oceanside corridor, which connects gnatcatcher populations in Orange and Riverside counties with populations to the north and east of Carlsbad. The HMP would preserve approximately 6,400 acres of native habitat, as existing preserve, proposed hardline preserve areas, and through implementation of "standards areas" in certain areas without existing development proposals.

Within the coastal zone, the second HMP addendum and LCP amendment proposes no net loss of most native vegetation types, with mitigation ratios ranging from 1:1 to 4:1 to ensure that, on balance, there will be no negative impacts to the total quantity and/or quality of ESHA within the coastal zone. Interim preserve management requirements, as included 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 Commission must consider impacts of residential buildout as a means to analyze the effect of the proposed LCP amendment and make revisions, as necessary, to establish the standard of review consistent with the Coastal Act. In order to protect corridors of viable, connected habitat area which take into account the mobility and foraging requirements of listed and covered species, the Commission finds that it is appropriate to take a regional approach to the preservation of ESHAs. Instead of preserving all ESHAs in place where they are found, which could result in excessive fragmentation, reduced habitat values and difficulties in monitoring and management, it may be more protective

of ESHA resources to focus on regional conservation approaches that concentrate development away from the habitat of greatest overall value. Such an approach could ensure the health and viability of larger, connected sensitive vegetative communities that support listed and covered species within the City's jurisdiction.

The regional nature of the habitat preservation effort sets the MHCP and HMP apart from other local jurisdiction plans affecting ESHA, where the noncomprehensive nature of the plans and lack of regional resource protection standards require more stringent limitations to coastal ESHA impacts for individual sites. 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. The HMP also proposes to provide a higher standard of protection for coastal ESHA than currently provided by the certified LCP, which addresses only native habitat on steep slopes greater than 25% (dual-criteria slopes).

Most of the properties in the standards areas and hardlines are zoned for low- density single-family development. Although it is anticipated that clustering and density transfer within areas outside of the proposed preserve locations could allow for the same number and intensity of residential units to be developed on most properties as currently designated in the General Plan, the ultimate effect would be to locate development on smaller lots and/or a smaller overall development footprint, located further from sensitive resources and proposed wildlife movement corridors. Although current zoning and land use designations limit development in most of the standards areas and hardline properties to low-density single-family development, higher density development than is currently allowed could appropriately occur in most of the areas identified for development in the LCP amendment. Potential impacts to these areas located in the HMP preserve would therefore be reduced, and additional benefits to the City resulting from compact urban growth, prevention of sprawl and efficient use of underlying infrastructure, public services and facilities would likely result. The Commission therefore finds that approval of the HMP and the LCP amendment, if modified as suggested, would result in increased clustering of development and reduction of urban sprawl into sensitive habitat areas.

Although implementation of the HMP and MHCP 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 and MHCP, particularly outside the coastal zone where fewer development restrictions on native habitat would apply. Within the coastal zone, the existing LCP does not protect native habitat on slopes less than 25% grade and therefore the proposed LCP revisions represent a significant improvement over current requirements. Through application of proposed mitigation requirements, there will be no net loss of ESHA within the coastal zone and the regional function of the MHCP preserve will continue to be protected.

This finding that approval of the HMP is the most protective option for coastal resources is based on the assumption that the habitat mitigation will be implemented as proposed, and properly maintained in perpetuity. Should the mitigation 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 revisions to the HMP and associated LUP policies which address establishment of the preserve area, funding, monitoring and management. Interim preserve management requirements, as provided in the draft 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.



SITE MAP



NOT TO SCALE

## POINSETTIA PLACE

GPA 04-12/ZC 04-08/LCPA 04-08/CT 04-10/CP 05-05/

HDP 04-05/SDP 04-07/CDI

EXHIBIT #1

Site Map

LCPA #3-06 Poinsettia Place

California Coastal Commission

44 FEB 23 2007

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COASTAL DISTRICT

RESOLUTION NO. 2006-370

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM AND APPROVING A GENERAL PLAN AMENDMENT (GPA 04-12) TO CHANGE THE PROPERTY'S GENERAL PLAN LAND USE DESIGNATION FROM RESIDENTIAL LOW MEDIUM DENSITY (RLM) AND RESIDENTIAL MEDIUM DENSITY (RM) TO RESIDENTIAL HIGH DENSITY (RH), RESIDENTIAL MEDIUM-HIGH DENSITY (RMH), AND OPEN SPACE (OS); A LOCAL COASTAL PROGRAM AMENDMENT (LCPA 04-08) TO CHANGE THE COASTAL PROGRAM LAND USE AND ZONING DESIGNATIONS TO BE CONSISTENT WITH THE CITY'S GENERAL PLAN AND ZONING; A TENTATIVE TRACT MAP (CT 04-10), CONDOMINIUM PERMIT (CP 04-05), HILLSIDE DEVELOPMENT PERMIT (HDP 04-05), SITE DEVELOPMENT PLAN (SDP 04-07), AND HABITAT MANAGEMENT PLAN PERMIT (HMPP 06-08) TO SUBDIVIDE A 20.4 ACRE SITE INTO TWO RESIDENTIAL LOTS FOR 90 CONDOMINIUMS AND THREE OPEN SPACE LOTS ON PROPERTY GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF CASSIA ROAD AND POINSETTIA LANE IN THE MELLO II SEGMENT OF THE LOCAL COASTAL PROGRAM AND LOCAL FACILITIES MANAGEMENT ZONE 21.

CASE NAME: POINSETTIA PLACE

CASE NO.: GPA 04-12/LCPA 04-08/CT 04-10/CP 04-05

HDP 04-05/SDP 04-07/HMPP 06-08


WHEREAS, pursuant to the provisions of the Municipal Code, the Planning Commission did, on November 15, 2006, hold a duly noticed public hearing as prescribed by law to consider a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, General Plan Amendment, Local Coastal Program Amendment, Tract Map, Condominium Permit, Hillside Development Permit, Site Development Plan, and Habitat Management Plan Permit; and

WHEREAS, the City Council of the City of Carlsbad, on the 19th day of December, 2006, held a duly noticed public hearing to consider said Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, General Plan Amendment, Local Coastal Program Amendment, Tract Map, Condominium Permit, Hillside Development Permit, Site Development Plan, and Habitat Management Plan Permit and at that time received recommendations, objections, protests, comments of all persons interested in or opposed to the Mitigated Negative Declaration and

EXHIBIT #2

Resolution of Approval

LCPA #3-06 Poinsettia Place

 California Coastal Commission



1 Program, General Plan Amendment (GPA 04-12), Local Coastal Program Amendment (LCPA  
2 04-08), Tract Map (CT 04-10), Condominium Permit (CP 04-05), Hillside Development Permit  
3 (HDP 04-05), Site Development Plan (SDP 04-07), and Habitat Management Plan Permit  
4 (HMPP 06-08); and

5 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of  
6 Carlsbad, California, as follows:

7 1. That the above recitations are true and correct.

8 2. That the findings and conditions of the Planning Commission as set forth in  
9 Planning Commission Resolutions No. 6187, 6188, 6190, 6191, 6192, 6193, 6194, and 6196  
10 on file with the City Clerk and made a part hereof by reference, are the findings and conditions  
of the City Council.

11 3. That the application for a Mitigated Negative Declaration and Mitigation  
12 Monitoring and Reporting Program and General Plan Amendment, Local Coastal Program  
Amendment, Tract Map, Condominium Permit, Hillside Development Permit, Site Development  
13 Plan, and Habitat Management Plan Permit on property generally located south of Cassia Road  
and west of Poinsettia Lane is approved as shown in Planning Commission Resolutions No.  
14 6187, 6188, 6190, 6191, 6192, 6193, 6194, and 6196.

15 4. That the application to change the property's General Plan Land Use designation  
16 from Residential Low Medium Density (RLM) and Residential Medium Density (RM) to  
Residential High Density (RH), Residential Medium-High Density (RMH), and Open Space (OS)  
17 on land generally located south of Cassia Road and west of Poinsettia Lane as shown in  
Planning Commission Resolution No. 6188, is hereby accepted, approved in concept, and shall  
be formally approved with a future GPA Batch.

18 5. That all vehicles associated with the construction of the project shall be parked  
19 on-site to the maximum extent feasible and specifically not on Cassia Road and subject to the  
approval of the City Engineer.

20 6. This action shall not become final until Local Coastal Program Amendment  
21 (LCPA 04-08) is approved by the California Coastal Commission and the California Coastal  
Commission's approval becomes effective. The Provisions of Chapter 1.16 of the Carlsbad  
22 Municipal Code, "Time Limits for Judicial Review" shall apply:

23 "NOTICE TO APPLICANT"

24 The time within which judicial review of this decision must be sought is  
25 governed by Code of Civil Procedure, Section 1094.6, which has been  
made applicable in the City of Carlsbad by Carlsbad Municipal Code  
26 Chapter 1.16. Any petition or other paper seeking review must be filed in  
the appropriate court not later than the nineteenth day following the date  
27 on which this decision becomes final; however, if within ten days after the  
28

1 decision becomes final a request for the record of the deposit in an  
2 amount sufficient to cover the estimated cost or preparation of such  
3 record, the time within which such petition may be filed in court is  
4 extended to not later than the thirtieth day following the date on which the  
5 record is either personally delivered or mailed to the party, or his attorney  
6 of record, if he has one. A written request for the preparation of the  
7 record of the proceedings shall be filed with the City Clerk, City of  
8 Carlsbad, 1200 Carlsbad Village Drive, Carlsbad, CA. 92008."

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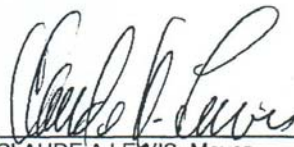
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1 PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council  
2 of the City of Carlsbad on the 19th day of December, 2006, by the following vote:

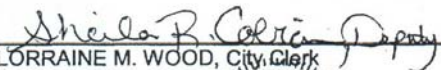
3  
4 AYES: Council Members Kulchin, Hall, Packard, Sigafoose

5 NOES: Council Member Lewis

6 ABSENT: None  
7

8  
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11 CLAUDE A LEWIS, Mayor

12 ATTEST:

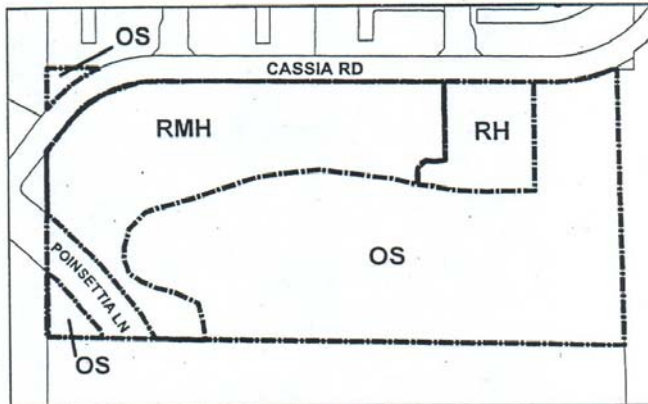
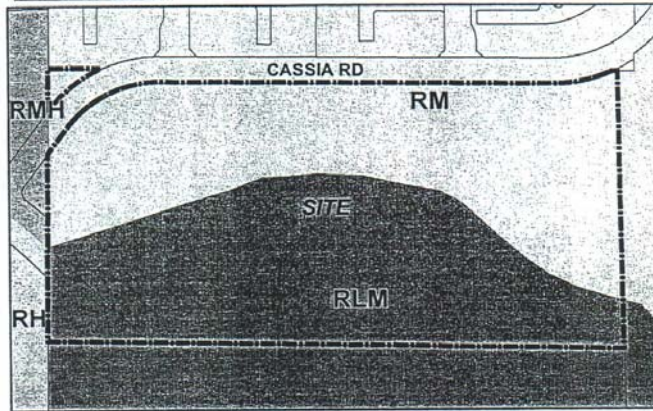
13  
14   
15 LORRAINE M. WOOD, City Clerk  
16 (SEAL)



LCPA 04-08  
LAND USE

POINSETTIA PLACE

November 15, 2006



Related Case File No(s): ZC 04-08/GPA 04-12/CT 04-10  
/CP 05-05/HDP 04-05/SDP 04-07/CDP 04-23/HMPP 06-08

G.P. Map Designation Change

Property	From:	To:
A. 215-020-23-00	RLM/RM	RMH/RH/OS
B.		
C.		
D.		

RECEIVED

DEC 29 2006

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

EXHIBIT #3

Land Use Map

LCPA #3-06 Poinsettia Place



California Coastal Commission



ORDINANCE NO. NS-828

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AMENDING SECTION 21.05.030 OF THE CARLSBAD MUNICIPAL CODE BY AN AMENDMENT TO THE ZONING MAP TO GRANT A ZONE CHANGE, ZC 04-08, FROM LIMITED CONTROL TO RESIDENTIAL DENSITY-MULTIPLE AND OPEN SPACE ON A 20.4-ACRE PARCEL GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF CASSIA ROAD AND POINSETTIA LANE IN THE MELLO II SEGMENT OF THE LOCAL COASTAL PROGRAM AND LOCAL FACILITIES MANAGEMENT ZONE 21.

CASE NAME: POINSETTIA PLACE

CASE NO.: ZC 04-08

The City Council of the City of Carlsbad, California, does hereby resolve as follows:

SECTION I: That Section 21.050.30 of the Carlsbad Municipal Code, being the zoning map, is amended as shown on the map marked Exhibit "ZC 04-08," dated November 15, 2006 attached hereto and made a part hereof.

SECTION II: That the findings and conditions of the Planning Commission as set forth in Planning Commission Resolution No. 6189 constitute the findings and conditions of the City Council.

EFFECTIVE DATE: This ordinance shall be effective no sooner than thirty days after its adoption but not until LCPA 04-08 is approved by the California Coastal Commission, and the City Clerk shall certify to the adoption of this ordinance and cause it to be published at least once in a publication of general circulation within fifteen days after its adoption.

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EXHIBIT #4

Zoning Ordinance

LCPA #3-06 Poinsettia Place



California Coastal Commission

1 INTRODUCED AND FIRST READ at a regular meeting of the Carlsbad City Council on  
2 the 19th day of December, 2006, and thereafter.

3 PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the  
4 City of Carlsbad on the 9th day of January, 2007, by the following vote:


5  
6 AYES: Council Members Kulchin, Hall, Packard, Sigafosse

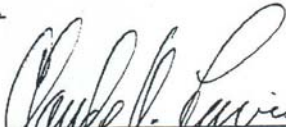
7 NOES: Council Member Lewis

8 ABSENT: None

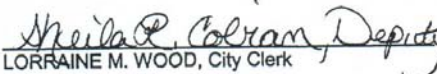
9 ABSTAIN: None

10  
11 APPROVED AS TO FORM AND LEGALITY

12  
13   
14 RONALD R. BALL, City Attorney  
15 1-11-07.

16   
17 CLAUDE A. LEWIS, Mayor

18 ATTEST:

19  
20   
21 LORRAINE M. WOOD, City Clerk

22 (SEAL)



RECEIVED

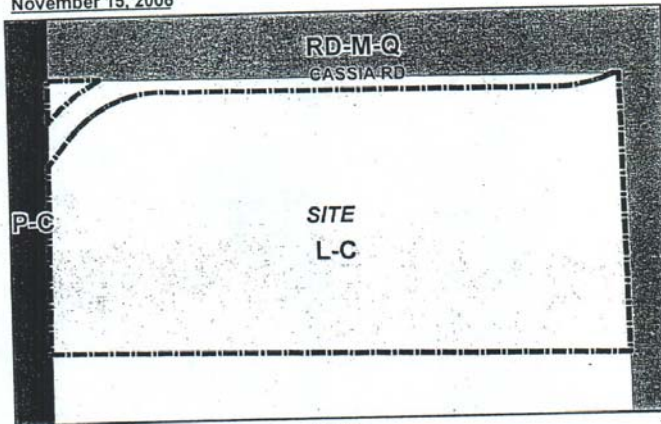
DEC 29 2006

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

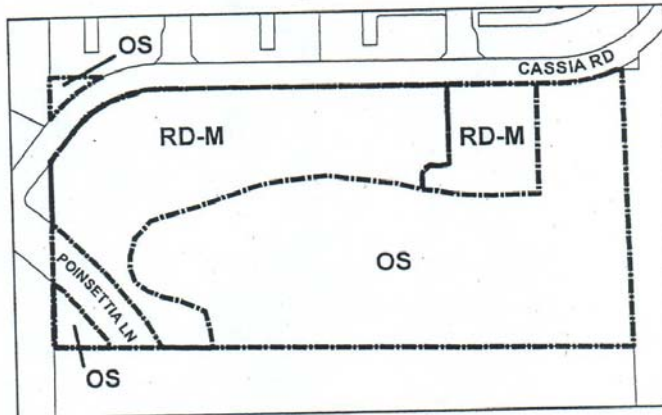
LCPA 04-08  
ZONING

POINSETTIA PLACE

November 15, 2006



EXISTING



PROPOSED

Related Case File No(s): GPA 04-12/ZC 04-08/CT 04-10  
/CP 05-05/HDP 04-05/SDP 04-07/CDP 04-23/HMPP 06-08

G.P. Map Designation Change

Property	From:	To:
A. 215-020-23-00	L-C	RD-M/OS
B.		
C.		
D.		

EXHIBIT #5

Zoning Map

LCPA #3-06 Poinsettia Place

California Coastal Commission





**Toni Ross**

**From:** Ron Hogan [rkhogan1739@sbcglobal.net]  
**Sent:** Thursday, December 21, 2006 12:57 PM  
**To:** Toni Ross  
**Cc:** Ron Hogan  
**Subject:** Poinsettia Place Development In Carlsbad

Ms. Ross,

My name is Ron Hogan and I am the President of the Poinsettia Heights Homeowners Association. We talked briefly a week ago about my concerns with the Poinsettia Place development that has worked its way thru the Carlsbad Planning Commission and City Council. I tried for over two weeks to obtain the calculations from the City Planning Department that show how this project qualifies in meeting the 25% development footprint as required by the City's Local Coastal Plan. I was given little to no information. What I was given was meaningless. The project size is 6.5 acres. The 25% limit size is 5.1 acres. I discovered that the Planning Department was allowing the developer to take double credits for the same additional acreage. One credit for not having it considered as part of the 25% calculation, and the other credit by adding it onto the 5.1 acres minimum to obtain the additional acreage required for the overbuilding of this site. The additional acreage that was added to the minimum 5.1 was described as "already being disturbed", therefore, not countable against the 25% requirement. This is a valid argument if this "disturbed" acreage is not used within the footprint of the development. It is used. The project sits right on top of this disturbed area. The developer/Planning Department simply added the 25% / 5.1 acres to it to obtain the desired 6.5 acres. This is a violation of the 25% requirement and is simply a manipulation of numbers to give the developer what he wants. Neither the City Planning Commission or the City Council could understand these facts (assuming they wanted to) when presented to them. They simply took the word of the Planning Department that the "buildings were within the 25% area". The Planning Department knew that the "buildings" were within the 25% limit, but the graded development area was not. This is a good example of how obtuse the Planning Department representative was during both the Planning Commission and City Council meetings. The City's Local Coastal Plan defines the "development area" as the graded area, not the building area.

Is there a way to deny the city's/developer's Local Coastal Plan changes that they will be requesting thru the Coastal Commission based on this evidence of manipulating the numbers.

Respectfully,

Ron Hogan

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DEC 21 2006

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

12/26/2006

**EXHIBIT #7**

**Letter of Opposition**

LCPA #3-06 Poinsettia Place

 California Coastal Commission



# City of Carlsbad

**Fire Department**

Office of Fire Prevention Division

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September 18, 2007

Ms. Toni Ross, Coastal Program Analyst  
California Coastal Commission  
San Diego Regional Office  
7575 Metropolitan Drive, Suite 103  
San Diego, California 92108

SAN DIEGO  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

**Subject- Poinsettia Place (CT 04-10), Residential Development Project, Carlsbad CA**

Dear Ms. Ross,

As follow-up to your meeting with City of Carlsbad staff and the applicant team yesterday, this letter is intended to clarify the Carlsbad Fire Department's approval of the project's fire protection zones.

The project, as designed and approved by the City, achieves adequate fire protection by utilizing the provisions of the Urban Wildland Interface Fire Code in conjunction with Fire Suppression zones 1 and 2. The project's fire protection zones 1 and 2 do not encroach into the open space preserve, and since there is no zone 3 requirement, there are no zone 3 impacts in the open space preserve. The fire protection zones do not extend beyond the limits of the development area as defined by the project's wall and fencing system.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory L. Ryan".

Gregory L. Ryan  
Deputy Fire Marshal  
City of Carlsbad

Cc: J. Henthorn & Assoc.  
FILE

1635 Faraday Avenue • Carlsbad, CA 92008 • (760) 602-46

EXHIBIT #8

Letter From Fire Marshal

LCPA #3-06 Poinsettia Place

California Coastal Commission