

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



January 15, 2009

F 6a**TO: COMMISSIONERS AND INTERESTED PERSONS****FROM: SHERILYN SARB, SOUTH COAST DEPUTY DIRECTOR
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT
TONI ROSS, COASTAL PROGRAM ANALYST, SAN DIEGO COAST
DISTRICT****SUBJECT: STAFF RECOMMENDATION ON CITY OF CARLSBAD MAJOR
AMENDMENT 2-07A (Aura Circle) for Commission Meeting of February 4-6,
2009**

SYNOPSIS

The subject LCP land use plan and implementation plan amendment was submitted and filed as complete on December 18, 2007. A one-year time extension was granted on March 6, 2008. As such, the last date for Commission action on this item is March 17, 2009. This report addresses one of two components (A) of the proposed amendment. LCPA 2-07B (Kelly JRM) is tentatively scheduled for the March 2009 hearing.

SUMMARY OF AMENDMENT REQUEST

The subject LCP amendment proposes changes to the land use designation and zoning on a 15.02 acre site, north of Hillside Drive at the terminus of Aura Circle in Carlsbad. The proposed changes to land use and zoning designations would facilitate the construction of nine single-family residences on individual lots and two (2) open space lots. The parcel exists as three different types of vegetation: Diegan coastal sage scrub (5.01 acres), native grasslands (0.44 acres) and non-native grassland (0.3 acres). There is also a significant portion of the site that is disturbed land (9.28 acres). Of the approximately 15 acres, 2.66 acres would be utilized for development and 12.36 acres would be protected as Open Space. The LCP land use designation would be modified from Residential Low Medium (RLM) and the zoning designation would be modified from R-1-8,000 Zone designation on the 12.36 acre preserved portion of the site to Open Space. The developed portion of the site would retain the previously identified residential designations (RLM, R-1-8,000). The changes to the land use and zoning designations onsite would memorialize the line of development, and provide protection from future development for the preserved lands.

The site is located within the Mello II Segment of the City's adopted Local Coastal Program (LCP) and is not within the Coastal Commission's appeal jurisdiction area of the Coastal Zone.

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 site-specific hardline established for this site during the certification of the HMP. The development is clustered on the south portion of the property, with grading kept off the largest area of Coastal sage scrub (CSS) on the north part of the site. The manufactured slopes are proposed to be re-vegetated with CSS, as is the remaining disturbed areas not utilized for development. The proposed project will add additional space into the hardline preserve, beyond that which was approved during the certification of the HMP. The project, as proposed, is therefore consistent with the Coastal Act; the City's certified LCP; and the policies and requirements of the City's Habitat Management Plan (HMP).

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 8.

BACKGROUND

On June 12, 2003, the California Coastal Commission approved a Local Coastal Program (LCP) amendment request for the adoption of the City's Habitat Management Plan (LCPA 1-03B). In its action, the Commission adopted land use plan revisions to the Carlsbad LCP, and incorporated the City's Habitat Management Plan (HMP) into the certified LCP. The modifications addressed revised development limitations on specific properties and included additional requirements for development of the preserve management plan. 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 June 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. 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.

Since certification of the HMP/LCP Amendment, the Commission has approved several LCP amendments, similar to that proposed here, which would modify the residential and open space boundaries to accommodate development. These include, but are not necessarily limited to, Carlsbad LCP Amendment Nos. 1-04B (Kirgis); 1-05A (Yamamoto); 1-05C (North Coast Calvary Chapel); 2-01A (Lynn); 2-04B (Black Rail); 2-06B (La Costa Village); and 1-07C (La Costa Glen).

ADDITIONAL INFORMATION

Further information on the Carlsbad LCP amendment 2-07A (Aura Circle) may be obtained from Toni Ross, Coastal Planner, at (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 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 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 LCPA 2-07A (AURA CIRCLE) LAND USE PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION.

The subject LCP amendment proposes changes to the land use designation and zoning on a 15.02 acre site, north of Hillside Drive at the terminus of Aura Circle in Carlsbad. The proposed changes to land use and zoning designations would facilitate the construction of nine single-family residences on individual lots and two (2) open space lots on a parcel that contains three different types of vegetation: Diegan coastal sage scrub (5.01 acres), native grasslands (0.44 acres) and non-native grassland (0.3 acres). There is also a significant portion of the site that is disturbed land (9.28 acres). Of the approximately 15 acres, 2.66 acres would be utilized for development and 12.36 acres would be protected as Open Space. The LCP land use designation would be modified from Residential Low Medium (RLM) and the zoning designation would be modified from R-1-8,000 Zone designation on the 12.36 acre preserved portion of the site to Open Space. The developed portion of the site would retain the previously identified residential designations (RLM, R-1-8,000). The changes to the land use and zoning designations onsite would memorialize the line of development, and provide protection from future development for the preserved lands.

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.

Section 30250

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

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. The property is subject to the preservation standards of the Habitat Management Plan (HMP) and, as a property within the Coastal Zone, is subject to additional HMP conservation standards for development within the Coastal Zone.

The proposed amendment before the Commission includes only the modifications to the land use and zoning designations on site and not the specific development. The project site is currently designated by the General Plan as Residential Medium Low (RML). As proposed, a portion of the site will remain as residential (2.66 acres); however, the remainder of the site will be redesignated as Open Space (12.36 acres). The project is located within the HMP "Hardline" area. A hardline area can be described as a site

within the City that contained sensitive vegetation at the time of the HMP certification but that was also the subject of proposed development at that time. Because development had already been proposed in such areas, a biological assessment was completed for each property meeting these criteria, and a line was drawn between the portion of the property that could be utilized to accommodate this proposed development, and the remainder of the property that was to be protected as Open Space. This line separating development from preserve lands is the “hardline” boundary; and, all properties with proposed development were mapped and included in the City’s HMP. The map depicting the hardline for Aura Circle can be found on Figure 36 of the HMP.

The proposed development will result in impacts to 1.84 acres of coastal sage scrub (CSS). HMP standards require a minimum of 67% of the CSS existing onsite be preserved. The project will preserve only 63.2% of the existing CSS. Because less than 67% of the CSS will be preserved, the project was required to provide mitigation at a higher ratio, 3:1 instead of 2:1, through onsite creation. The ability to preserve only 63.2% of CSS onsite was taken into account during the HMP certification when the hard line envelope was established and therefore does not represent a change in circumstances, or impacts greater than were deemed “permissible” by the certification of the HMP.

The required mitigation for the project will result in the creation of 5.457 acres of CSS onsite, in addition to the 3.17 acres preserved onsite, for a total of 8.74 acres; whereas, currently, only 5.01 acres of CSS exists onsite (+3.73 acres). The project thereby results in the *increase* of protected habitat. Because the impacts at this location were previously assessed, and approved by the Coastal Commission, the appropriate mitigation and monitoring measures are included, and the proposed project does not result in a net loss to the sensitive habitat, the proposed changes to the City of Carlsbad’s LUP can be found consistent with the Coastal Act.

PART IV. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD
MELLO II IMPLEMENTATION PLAN AMENDMENT #1-2-07A AS
SUBMITTED

A. AMENDMENT DESCRIPTION

The zoning designation would be modified from R-1-8,000 Zone designation on the 12.36 acre preserved portion of the site to Open Space. The developed portion of the site would retain the previously identified residential zoning (R-1-8,000). The changes to the zoning designations onsite would memorialize the line of development, and provide protection from future development for the preserved lands.

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.

2. Major Provisions of the Ordinance.

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.

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.

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 its assurance 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 approved.

The City first submitted the second portion of the HMP - Implementation Plan in April of 2006 in an attempt to address these requirements. However, Commission staff did not feel the City adequately addressed all the concerns for implementing such a large-scale program. Presently, Commission staff and the City are working cooperatively to develop an implementation plan that will adequately address any potential, short- or long-term, impacts to coastal resources.

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 that this mechanism will include the creation and application of a conservation oriented open space zone or overlay to the habitat preserve areas that will restrict uses of those areas to resource dependent uses, which designation would be more restrictive and protective of coastal resources than the current open space zone certified in the LCP (and as described above). The Commission finds, in the absence of a resource-oriented conservation zone, the habitat preserve will nevertheless be protected as open space through the Open Space land use plan designation, which is controlling, and the conservation easements which have been required as a condition of approval by the City. The conservation easements prohibit private encroachment or development in dedicated open space; however, habitat restoration and enhancement is permitted. Therefore, the Commission finds the proposed open space zoning would adequately implement the HMP/LCP 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. 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.

Appendix A

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

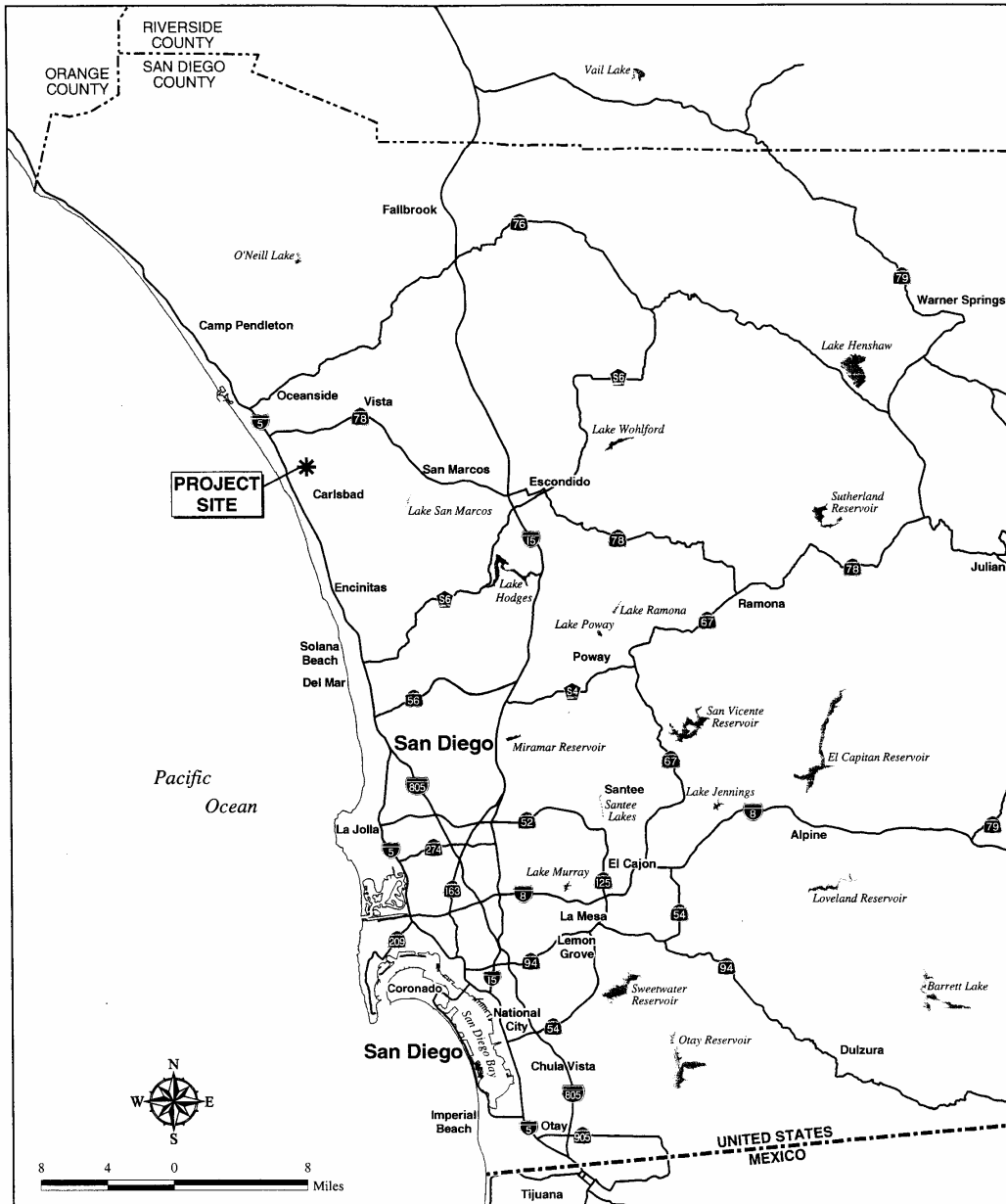
in place where they are found, which could result in excessive fragmentation, reduced habitat values and difficulties in monitoring and management, it may be more protective of ESHA resources to focus on regional conservation approaches that concentrate development away from the habitat of greatest overall 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 non-comprehensive 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.



I:\ArcGIS\MSK-01 Aura\Map\BIO\BTR\Fig_1_Regional.mxd

Regional Location Map

HELIX

EXHIBIT #1
Location
LCPA #2-07A Aura Circle 2 pages
 California Coastal Commission



Project Location Map

AURA CIRCLE

Figure 2

HELIX

PLANNING COMMISSION RESOLUTION NO. 6288

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARLSBAD, CALIFORNIA, RECOMMENDING APPROVAL OF A LOCAL COASTAL PROGRAM AMENDMENT TO CHANGE THE LCP LAND USE DESIGNATION FROM RLM TO OS AND TO CHANGE THE LCP ZONE DESIGNATION FROM R-1-8,000 TO OS ON LOTS 10 AND 11 OF CT 03-10 ON PROPERTY GENERALLY LOCATED WEST OF KELLY DRIVE AND NORTH OF HILLSIDE DRIVE AT THE TERMINUS OF AURA CIRCLE WITHIN THE MELLO II SEGMENT OF THE LOCAL COASTAL PROGRAM AND LOCAL FACILITIES MANAGEMENT ZONE 1.

CASE NAME: AURA CIRCLE
CASE NO: LCPA 05-03

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, Carlsbad Greens, LLC, "Owner/Developer," has filed a verified application for an amendment to the Local Coastal Program designations regarding property described as

That portion of Lot "I" of Rancho Agua Hedionda, in the City of Carlsbad, County of San Diego, State of California, according to Map thereof No. 823, filed in the Office of the County Recorder of San Diego County, November 16, 1896, further described in Attachment "A"

("the Property"); and

WHEREAS, said verified application constitutes a request for a Local Coastal Program Amendment as shown on Exhibit "LCPA 05-03" dated May 2, 2007, attached hereto, 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

WHEREAS, the Planning Commission did () May 2007 hold a duly noticed public hearing as prescribed by law to consider

EXHIBIT #2
Resolution of Approval with Maps
LCPA #2-07A Aura Circle
 California Coastal Commission

1 WHEREAS, at said public hearing, upon hearing and considering all testimony
2 and arguments, if any, of all persons desiring to be heard, said Commission considered all factors
3 relating to the Local Coastal Program Amendment; and

4 WHEREAS, State Coastal Guidelines requires a six-week public review period
5 for any amendment to the Local Coastal Program.

6 NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning
7 Commission of the City of Carlsbad, as follows:

- 8
- 9 A) That the foregoing recitations are true and correct.
 - 10 B) At the end of the State-mandated six-week review period, starting on **January 12,**
11 **2007,** and ending on **February 23, 2007,** staff shall present to the City Council a
12 summary of the comments received.
 - 13 C) That based on the evidence presented at the public hearing, the Commission
14 **RECOMMENDS APPROVAL** of **AURA CIRCLE - LCPA 05-03** based on
the following findings, and subject to the following conditions:

15 **Findings:**

- 16 1. That the proposed Local Coastal Program (LCP) Amendment meets the requirements of,
17 and is in conformity with, the policies of Chapter 3 of the Coastal Act and all applicable
18 policies of the Mello II segment of the Carlsbad Local Coastal Program not being
19 amended by this amendment, in that **the proposed change in the LCP Land Use and**
20 **Zone designations for Lots 10 and 11 of CT 03-10 from Residential Low-Medium**
21 **Density (RLM) to Open Space (OS) LCP Land Use designation and from R-1-8,000**
22 **to Open Space (OS) LCP Zone designation is based on the environmental**
23 **constraints of the property and is environmentally and topographically appropriate**
24 **for the site in that the manufactured slopes within Lot 10 are considered**
25 **undevelopable and the habitat areas within Lot 11 will be included in the open space**
26 **preserve areas; and that these areas are proposed to be designated as OS on the**
27 **General Plan Land Use and Zone Maps.**
- 28 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 proposed General Plan**
Amendment (GPA 05-06) and the proposed zone change (ZC 05-03).

26 **Conditions:**

- 27 1. This approval is granted subject to the approval of the **adoption and approval of the**
28 **Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program,**
GPA 05-06, ZC 05-03, and HMP 06-12 and is subject to all conditions contained in
Planning Commission Resolutions No. 6285, 6286, 6287, and 6289 for those approvals
incorporated herein by reference.

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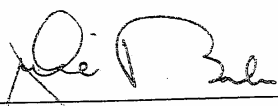
PASSED, APPROVED, AND ADOPTED at a regular meeting to the Planning Commission of the City of Carlsbad, held on the 2nd day of May 2007, by the following vote, to wit:

AYES: Chairperson Baker, Commissioner Cardoso, Dominguez, Douglas, Montgomery, and Segall

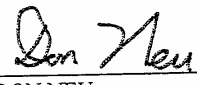
NOES:

ABSENT: Commissioner Whitton

ABSTAIN:



JULIE BAKER, Chairperson
CARLSBAD PLANNING COMMISSION

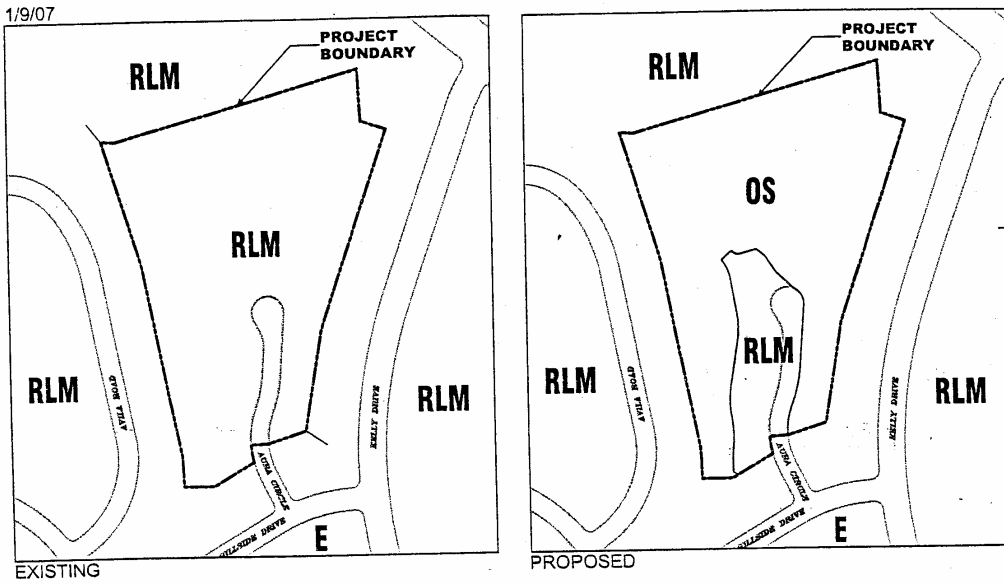
ATTEST:


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Planning Director

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Exhibit "LCPA 05-03"

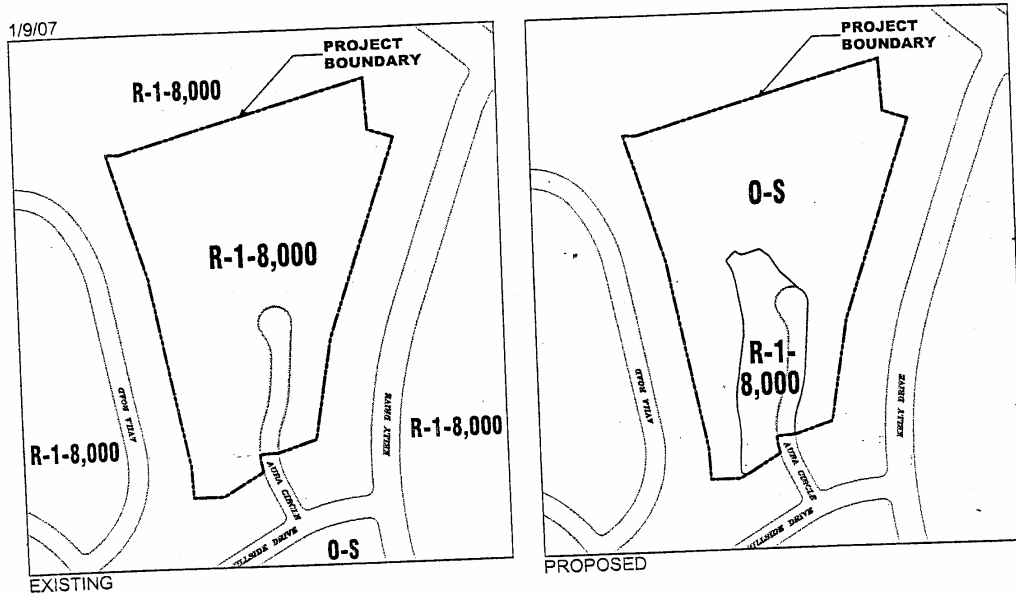
LCPA 05-03 LAND USE
 AURA CIRCLE



Related Cases File No(s): GPA 05-06/ZC 05-03/CT 03-10/SDP 05-05/HDP 03-05/CDP 03-32		
G.P. Map Designation Change		
Property	From:	To:
A. 207-100-48	RLM	RLM/OS
B.		
C.		
D.		

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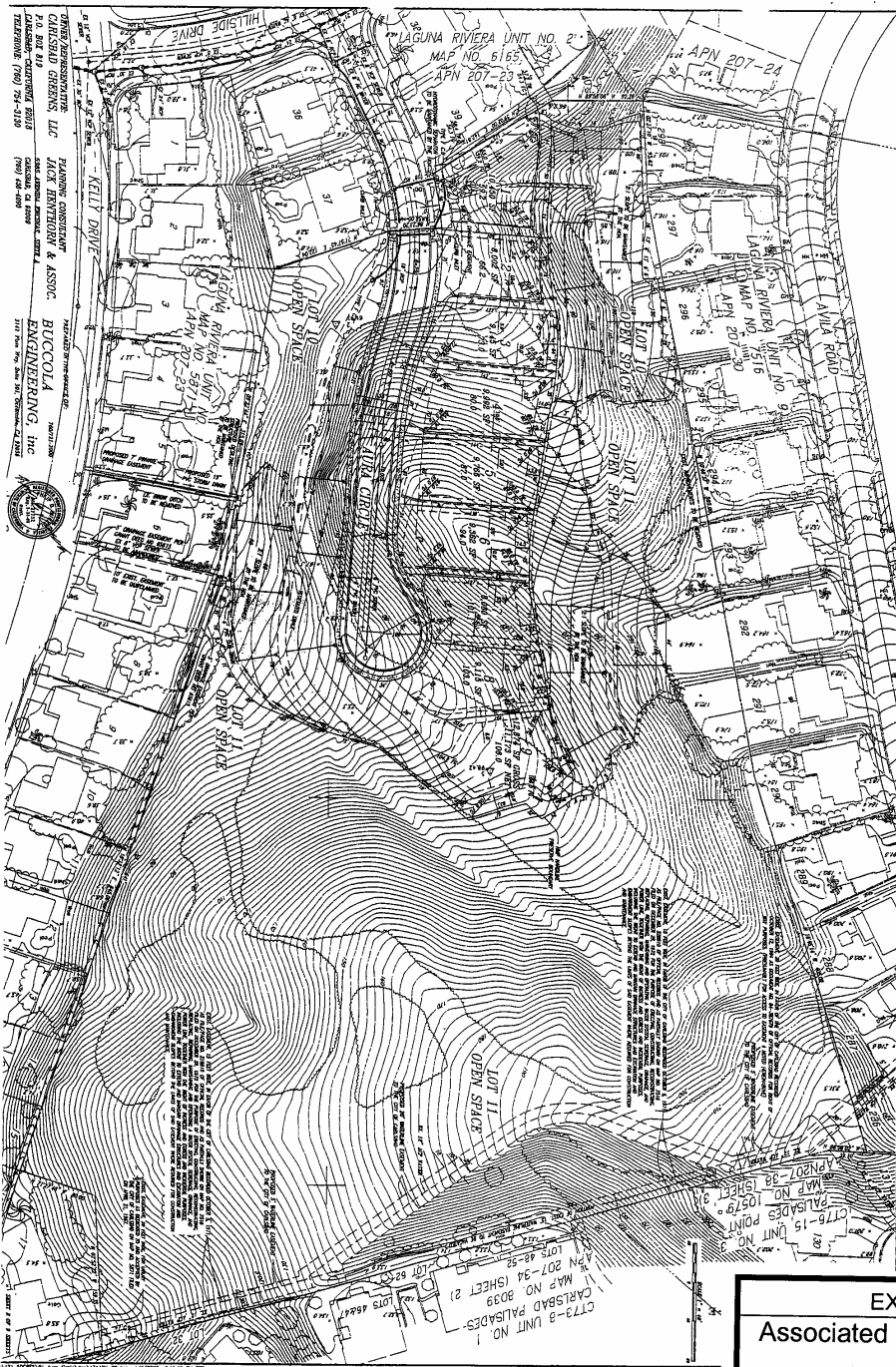
LCPA 05-03 ZONE CHANGE
 AURA CIRCLE



Related Cases File No(s): GPA 05-06/ZC 05-03/CT 03-10/SDP 05-05/HDP 03-05/CDP 03-32

Zone Change		
Property	From:	To:
A. 207-100-48	R-1-8,000	R-1-8,000/O-S
B.		
C.		
D.		

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<p>EXHIBIT #3</p> <p>Associated Development Site Plan</p> <p>LCPA #2-07A Aura Circle</p> <p>California Coastal Commission</p>
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