

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
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VENTURA, CA 93001  
(805) 585-1800



# W 7a

**DATE:** July 27, 2006

**TO:** Commissioners and Interested Persons

**FROM:** John Ainsworth, Deputy Director, South Central Coast District  
Barbara Carey, Supervisor, Planning and Regulation  
Lillian Ford, Coastal Program Analyst

**SUBJECT:** City of Oxnard Local Coastal Program Amendment 1-05 (Oxnard Shores) for Public Hearing and Commission Action at the August 9, 2006, Commission Meeting in Costa Mesa.

**DESCRIPTION OF THE SUBMITTAL**

The City of Oxnard is requesting an amendment to the Coastal Zoning Ordinance/Implementation Plan (CZO/IP) portion of its certified Local Coastal Program (LCP) to modify the zoning map to rezone a 1.39-acre parcel and a 1.60-acre parcel within the Oxnard Shores neighborhood from the "Resource Protection" (RP) zone to the "Single Family Beach" (R-B-1) zone. The 1.39-acre parcel is located west of Harbor Boulevard, between Reef Way and Breakers Way, and the 1.60-acre parcel is located immediately north of Whitecap Street and approximately 120 feet east of Mandalay Beach Road.

The submittal was deemed complete and filed on July 19, 2005. At its August 2005 Commission meeting, the Commission extended the 60-day time limit to act on Local Coastal Program Amendment 1-05 for a period not to exceed one year. The 60-day time limit ended on September 17, 2005. Thus the last day for Commission action on this item is September 17, 2006.

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends approval of the amendment with one suggested modification. The project sites are located in the Oxnard Shores area of the city. The parcels are located in an area able to accommodate residential development, utilities are available, and the proposed density is consistent with the character of surrounding development. The Oxnard Shores area was previously sand dunes that were subdivided and graded prior to 1972. Today, the two project sites, due in part to their varying proximity to the beach and wind-borne sand, are dissimilar in habitat value and topography.

The parcel located on Breakers Way is surrounded by existing development, is highly disturbed, does not maintain viable connections to the beach or other dune communities, and is not inhabited by rare or endangered plant or animal species. Thus it does not meet the Coastal Act definition of Environmentally Sensitive Habitat Area (ESHA). Therefore, the proposed zoning map amendment from "Resource Protection (RP)" to "Single Family Beach (R-B-1)" on this parcel will not result in impacts to ESHA, and is thus consistent with the ESHA policies of the certified Land Use Plan.

In contrast, the parcel located on Whitecap Street, while disturbed and surrounded by residential development, does retain dune topography, significant native vegetation, and

provides habitat for California and Federal Species of Special Concern such as the Coast Horned Lizard (*Phrynosoma coronatum*). The site thus does meet the Coastal Act definition of Environmentally Sensitive Habitat Area (ESHA). In order to ensure that the Whitecap Street ESHA is protected, consistent with Section 30240 of the Coastal Act, Suggested Modification No. 1 requires the City to delete the proposed zoning change of the parcel and retain it in the "Resource Protection (RP)" zone district.

### **Substantive File Documents**

City of Oxnard, City Council Ordinance No. 2684, dated March 8, 2005

City of Oxnard, City Council Resolution No. 2005-10, dated January 20, 2005

Mitigated Negative Declaration No. 98-40

Biological Resources Evaluation and Analysis, Impact Sciences, November 2005

Biological Resources Analysis of Tract Number 5063, Dudek & Associates, May 13, 2002

Biological Resources Analysis of Tract Number 5064, Dudek & Associates, May 13, 2002

Site Assessment: 6.343-Acre City of Oxnard Property South of West Fifth Street, Impact Sciences, April 26, 2006

Memorandum re: Whitecap Street Property, 6.4-acre Mitigation Site, Impact Sciences, June 30, 2006

Additional Analysis of Silvery Legless Lizard and San Diego Horned Lizard on the Whitecap Project Site, Oxnard, California, Impact Sciences, July 15, 2006

Letter re: Proposed Re-zoning of Parcel Located on Whitecap Street, Oxnard Shores, Ventura County, California, Lawrence E. Hunt, Consulting Biologist, July 17, 2006

Biological Resources on the Whitecap Street Site Proposed for Rezoning, Oxnard Shores, City of Oxnard, Ventura County, California (Tract Number 5064, 1.60 acres), David Magney Environmental Consulting, July 20, 2006

Letter re: Proposed Rezone of Whitecap Way parcel, Oxnard Shores, California Department of Fish and Game, July 24, 2006

Memo from John Dixon to Lillian Ford, re: Whitecap Street Site, July 26, 2006

**Additional Information:** Please contact Lillian Ford, California Coastal Commission, South Central Coast Area, 89 S. California Street, Suite 200, Ventura, CA (805) 585-1800.

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## **A. PROCEDURAL ISSUES**

### **1. STANDARD OF REVIEW**

The Coastal Act provides that:

*The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter...*

*The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (Section 30514)*

The standard of review for the proposed amendment to the Implementation Plan (Coastal Zoning Ordinance) of the certified Local Coastal Program, pursuant to Section 30513 and 30514 of the Coastal Act, is that the proposed amendment is in conformance with, and adequate to carry out, the provisions of the Land Use Plan (LUP) portion of the certified City of Oxnard Local Coastal Program.

### **2. PUBLIC PARTICIPATION**

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. The City held a series of public hearings (Planning Commission Hearing 1/20/05 and City Council Hearing 3/01/05) and received verbal and written comments regarding the project from concerned parties and members of the public. The hearings were noticed to the public consistent with Sections 13552 and 13551 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

### **3. PROCEDURAL REQUIREMENTS**

Pursuant to Section 13551 (b) of the California Code of Regulations, the City may submit a Local Coastal Program Amendment that will either require formal local government adoption after the Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. City Council Resolution 2005-10 states the amendment will take effect automatically upon Commission approval. However, in this case, because this approval is subject to suggested modifications by the Commission, if the Commission approves this Amendment, the City must act to accept the certified suggested modifications within six months from the date of Commission action in order for the Amendment to become effective (Section 13544.5; Section 13537 by reference). Pursuant to Section 13544, the Executive Director shall determine whether the City's action is adequate to satisfy all requirements of the Commission's certification order and report on such adequacy to the Commission. If the Commission approves the amendment as modified by the suggested modification, no further action will be necessary.

## **B. STAFF RECOMMENDATION, MOTIONS, AND RESOLUTIONS ON THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE (IP/CZO)**

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

### **1. DENIAL AS SUBMITTED**

**MOTION I:**        *I move that the Commission reject the Implementation Program/Coastal Zoning Ordinance Amendment for the City of Oxnard as submitted.*

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

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

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

The Commission hereby denies certification of the Implementation Program/Coastal Zoning Ordinance Amendment submitted for the City of Oxnard and adopts the findings set forth below on grounds that the Implementation Program Amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted.

### **2. CERTIFICATION WITH SUGGESTED MODIFICATIONS**

**MOTION II:**        *I move that the Commission certify the Implementation Program/Coastal Zoning Ordinance Amendment for the City of Oxnard if it is modified as suggested in this staff report.*

#### **STAFF RECOMMENDATION:**

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

**RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:**

The Commission hereby certifies the Implementation Program/Coastal Zoning Ordinance Amendment for the City of Oxnard if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

**C. SUGGESTED MODIFICATIONS TO THE IMPLEMENTATION PROGRAM AMENDMENT**

Staff recommends that the Commission certify the following, with the modification shown below.

**Suggested Modification No. 1**

Delete the proposed zoning change of Tract No. 5064 (APN 191-082-07) from RP (Coastal Resource Protection) to R-B-1 (Single Family Beach). Retain the RP zoning designation on parcel APN 191-082-07.

**D. FINDINGS AND DECLARATIONS FOR DENIAL OF THE IMPLEMENTATION PROGRAM (IP) AMENDMENT AS SUBMITTED, AND APPROVAL OF THE IP AMENDMENT WITH SUGGESTED MODIFICATIONS**

The following findings support the Commission's denial of the proposed amendment as submitted, and approval of the proposed amendment if modified as suggested below. The Commission hereby finds and declares as follows:

**1. AMENDMENT DESCRIPTION**

The City of Oxnard is requesting an amendment to the Coastal Zoning Ordinance/Implementation Plan (CZO/IP) portion of its certified Local Coastal Program (LCP) to modify the zoning map to rezone a 1.39-acre parcel and a 1.60-acre parcel within the Oxnard Shores neighborhood from the "Resource Protection" (RP) zone to the "Single Family Beach" (R-B-1) zone. The 1.39-acre parcel is located west of Harbor Boulevard, between Reef Way and Breakers Way, and the 1.60-acre parcel is located immediately north of Whitecap Street and approximately 120 feet east of Mandalay Beach Road. The subject parcels are designated "Existing Residential Area" on the certified Land Use Plan Map, so no amendment to the LUP is

proposed or needed. The City Council Resolution is included as Exhibit 1 and the City Council Ordinance is Exhibit 2.

In conjunction with the subject LCP amendment, the City has considered a subdivision of the subject 1.39-acre parcel and 1.60 parcel into twelve residential lots and thirteen residential lots respectively. Although the proposed subdivision is not part of the subject LCP amendment request, the proposed tentative tract maps are included for illustrative purposes as Exhibits 7 and 8.

## **2. NEW DEVELOPMENT, COASTAL RESOURCES, AND ESHA**

The City of Oxnard Local Coastal Program requires that new development shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it. Additionally, new development must be located where it will not have significant adverse impacts on coastal resources. Section 30250 (incorporated by reference into the certified LUP) states, in relevant part, that:

***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 Local Coastal Program also requires the protection of environmentally sensitive habitat areas (ESHA) against any significant disruption of habitat values. No development may be permitted within ESHA, except for uses that are dependent on the resource. Section 30240 (incorporated by reference into the certified LUP) of the Coastal Act further requires that development adjacent to ESHA is sited and designed to prevent impacts that would significantly degrade ESHA and to be compatible with the continuance of the habitat areas. Section 30240 states that:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such 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 such areas, and shall be compatible with the continuance of such habitat areas.***

Section 30107.5 of the Coastal Act defines ESHA as follows:

***Environmentally sensitive area means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.***

The proposed LCP amendment would rezone two parcels from “Coastal Resource Protection (RP)” to “Single Family Beach (R-B-1)”. This amendment would allow for the future approval of residential development on these parcels, consistent with the density and development standards permitted in the R-B-1 zone. The subject sites are located within the Oxnard Shores

neighborhood, an area between the beach and Harbor Boulevard that was subdivided prior to 1972 and is developed with single and multi-family residential structures. As such, the sites are in close proximity to urban public services such as water, sewer, electrical services, and two major public roadways. Therefore, the sites are located contiguous with and in close proximity to existing developed areas that are able to accommodate the new residential development as is required under Section 30250 of the Coastal Act.

The proposed R-B-1 zoning designation for the subject sites will be consistent with the existing land use designation that applies. The LUP Map designates the subject sites as "Existing Residential Area". The LUP describes the Existing Residential Area designation in part as follows: "Applied only to existing, partially developed neighborhoods, this designation will allow the full buildout of these areas at existing densities." The City proposes to modify the Coastal Zoning Map to zone the sites "Single Family Beach" (R-B-1). The R-B-1 zone allows the development of single family residences, with a minimum lot area of 4,000 sq. ft., subject to several development standards. The residential development surrounding the subject sites is also zoned R-B-1. The City of Oxnard has considered, although not given approval for the development of twenty five residences total on the subject sites. That density would be consistent with the density requirements of the R-B-1 zone.

Staff would note that the subject sites are not designated as "Resource Protection Area" under the Oxnard LUP. This land use designation is provided under the LUP and it is: "applied only to sensitive habitat areas; this designation will preserve these resources". Nonetheless, the site is zoned "Resource Protection" (RP) by the Coastal Zoning Code, a designation that has the purpose of providing for the protection of ESHA. As such, there is a conflict between the land use designation and the zoning applied to the subject sites. The City found that the RP zone was applied to the subject parcels as an interim measure. The Coastal Act Consistency Analysis submitted by the City on June 8, 2005 states that:

***The RP zoning designation of the site is an interim zoning designation. In accordance with Section 37-2.14.3 of the coastal zoning ordinance, "undeveloped parcels of land designated with two or more zone categories shall be totally zoned RP on an interim basis until a specific development plan is approved which is consistent with both the Oxnard Coastal Land Use Plan and all applicable provisions of (the City code)."***

***In the 1980's the subject properties were zoned A-O for agricultural and oil drilling land uses. Since the properties were used neither for agricultural or oil drilling purposes, the RP designation was placed on the properties in the mid-1980's per the coastal zoning ordinance.***

Staff would note that there is such a provision to apply an interim zoning designation contained in the "RP" zone development standards. However, there is no discussion of this provision or the specific properties that it had been applied to in the findings for the Commission's certification of the Oxnard Coastal Zoning Ordinance.

The sites that are the subject of the proposed amendment are also not identified as ESHA by the LUP. The certified LUP includes the same definition of ESHA as Section 30107.5 of the Coastal Act. The certified LCP also contains policies regarding the protection of ESHA resources, including restriction of uses, the requirement of biologic studies, and development siting and design measures, including buffers. The LUP contains a sensitive habitat map showing the known sensitive habitats (ESHA) within the coastal zone. The ESHAs identified in the LUP include wetlands, dunes, riparian, and marine habitats.

It seems clear that the western area of the City of Oxnard contained extensive dune fields stretching south from the Santa Clara River along the ocean. Most of these dunes have been disturbed, altered, and destroyed for development, as is the case across much of the state. Notwithstanding the destruction of dune habitat within the City, the LUP identifies five dune areas within the coastal zone that meet the definition of ESHA:

1. A 26-acre area at the intersection of Fifth Street and Harbor Boulevard
2. A portion of a 54-acre parcel located between Harbor Boulevard and the Edison Canal, south of Wooley Road.
3. An area at the northerly end of "The Colony" property adjacent to the Oxnard State Beach park site.
4. A chain of dunes paralleling the beach from the Santa Clara River mouth south to Fifth Street.
5. Ormond Beach dunes paralleling the beach.

The subject sites are not shown as containing dune ESHA. Staff also reviewed aerial photographs of the project sites. A 1972 photo (included as Exhibit 12) shows that the Oxnard Shores area, including the subject sites, had been graded, and paved roads and other utilities had been installed prior to the effective date of the California Coastal Zone Conservation Act of 1972 (Proposition 20). The area was sparsely developed with residences at that time. A 1979 photo (Exhibit 12) shows that many more, but not all of the parcels were developed with residences. The Breakers Way site remains vacant, flat, and sparsely vegetated in the 1979 photo. In the same photo, the Whitecap Street site is largely unvegetated but appears to have recovered some dune topography.

By comparison, the dunes located east of Harbor Boulevard (south of its intersection with Wooley Road), have clearly maintained their dune geomorphology. Past photos of the area do indicate that these dunes were subject to disturbance, but it does not appear that the site was graded. The 1972 and 1979 photos show that some of the vegetation on this site had been disturbed or removed and tracks or trails made by vehicles are visible. Nonetheless, later photos show that this site maintained its dune landforms and that the site was recolonized with vegetation. In recognition of the dune landforms and habitat present, this site was designated as ESHA on the LUP Sensitive Habitats Map and the site was zoned Resource Protection.

Although the subject sites are not designated ESHA by the LUP, it is critical to evaluate whether the sites should nonetheless be considered to contain habitat that is consistent with the definition of ESHA, in order to ensure that the proposed LCP amendment is consistent with the resource protection policies of the Oxnard LUP. The two sites are considered in turn below.

### **Breakers Way Site**

The Breakers Way site is a flat, vacant, approximately 1.39-acre parcel located on the eastern edge of the Oxnard Shores neighborhood, just west of Harbor Boulevard. The City has provided a Biological Resources Analysis, dated May 13, 2002, prepared by Dudek & Associates, Inc. that addresses the biological resources on the subject site.

The report identifies one soil type on the site (sand), and two vegetation types (annual grassland and disturbed habitat). According to the report, the majority of the site (1.2 acres) contains annual grassland, and the remaining 0.19 acres contain disturbed habitat. The report states:



***Annual grassland occupies the majority of the project site. Where native plant communities have been subject to repeated or severe disturbance, the habitat frequently reverts to annual or non-native grassland. These areas usually are dominated by annual grasses, such as bromes (*Bromus* spp.) and wild oats (*Avena* spp.) and other disturbance-tolerant species such as filarees (*Erodium* spp.). Annual grassland onsite is dominated by red-stemmed filaree (*Erodium cicutarium*), pineapple weed (*Camomilla suaveolens*), California burclover (*Medicago polymorpha*), slender oat (*Avena Barbara*), and barley (*Hordeum* sp.).***

***Disturbed habitat occurs in two areas along the northern and southern project boundaries. These areas are nearly entirely lacking in vegetation, apparently due to vehicle use. At the time of the survey a vehicle was parked in the southern patch of disturbed habitat, and tire tracks were present within both the southern and northern disturbed habitat patches.***

The biological report identified no rare, endangered, or special status plant or animal species on the site.

Staff has also visited the site in August 2005 and March 2006. The visits confirmed that while the soils are primarily sand, there are no dune landforms present. The level of disturbance on the site was also very clear. It was apparent that vehicles, including heavy equipment, have been driven onto and across the site, and that people and pets have walked across the site. Additionally, construction materials and other debris have been dumped on the site, and a portion of the site has been recently used as a staging area for construction of a residence immediately north of Breakers Way. The eastern and northern portions of the parcel are largely denuded and contain significant amounts of gravel and debris. The western portion of the parcel contains annual grassland. The site abuts existing single family residences on the west, and streets fronted by single family residences to the north and south. To the east, the site abuts a two-lane frontage road. East of the frontage road, there is a block wall and further east there is a four-lane road (Harbor Boulevard). Across Harbor Boulevard to the east, there is a large area of dune habitat. The Commission's biologist, Dr. John Dixon, has reviewed photos of the site, including aerial photos of the surrounding area, and the biological reports described above. Dr. Dixon also briefly visited the site in August 2005.

Given the rarity of dune habitats across the state, the Commission has considered dunes, even those that are significantly degraded, to meet the definition of ESHA, if they retain some connection to the beach or other dune areas, or if they are inhabited by plants or animals that are rare, endangered, or have other special status. In this case, based on the available information, staff concludes that the subject site does not meet the definition of ESHA. As described above, there has been ongoing disturbance on the subject site since before 1972. The mass grading and development of the suburban-level subdivision that was carried out in the Oxnard Shores area prior to 1972 resulted in the loss of dune topography across this entire area, including the subject site. Most of the parcels created in this area have been developed with residential or commercial structures. The subject site has not been developed. No dune landforms have ever reformed on the site. This is apparently the result of the continuing disturbance of the site, as well as the fact that the site has been physically cut off from the beach and any other source of sand by the surrounding development. The site has been disturbed by vehicles, dumping and storage of construction material and debris, and human intrusion. There is a larger, better developed, dune habitat area to the east, but it is separated from the subject site by two roads and a wall. There is no dune vegetation or dune topography on the site and there are no rare or endangered plants or animals.

The site does not meet the Coastal Act definition of Environmentally Sensitive Habitat Area (ESHA), and does not contain any other coastal resources. Therefore, the proposed zoning map amendment to zone the site from "Resource Protection" to "Single Family Beach" will not result in impacts to ESHA or coastal resources, consistent with the policies of the certified Land Use Plan.

### **Whitecap Street Site**

The Whitecap Street site is a vacant, approximately 1.60-acre parcel with rolling terrain located in the western portion of the Oxnard Shores neighborhood, approximately 120 feet east of Mandalay Beach Road, the first road paralleling the beach. The City initially provided two reports (Biological Resources Analysis, dated May 13, 2002, prepared by Dudek & Associates, Inc., and Biological Resources Evaluation and Analysis, dated November 2005, prepared by Impact Sciences) that address the biological resources on the subject site.

These reports identify one soil type on the site (sand). The Dudek & Associates report identifies three vegetation types (disturbed southern foredune, ornamental land, and disturbed habitat) on the site as follows:

*Disturbed southern foredune occupies the majority of the project site. The dunes onsite are classified as disturbed due to the dominance of hottentot-fig (*Carpobrotus edulis*), a non-native species, and the abundant human, canid, and felid use the site receives. Hottentot-fig covers approximately 50% of the dune areas onsite. The remainder of the dune vegetation is composed of typical native dune species, such as beach bur (*Ambrosia chamissonis*), sea rocket (*Cakile maritime*), pink sand verbena (*Abronia umbellata*), and beach evening primrose (*Camissonia cheiranthifolia*).*

*Ornamental land is located in the northeast corner and along the north-central border of the study area. This land cover type is generally composed of non-native species planted by humans for decorative or ornamental purposes. Ornamental species onsite include Nichol's willow-leafed peppermint (*Eucalyptus nicholii*), Monterey cypress (*Cupressus macrocarpa*), Sydney golden wattle (*Acacia longifolia*), pink melaleuca (*Melaleuca nesophila*), lemon bottlebrush (*Callistemon citrinus*), and smooth-tipped agave (*Agave attenuate*).*

*Disturbed habitat refers to areas which lack vegetation entirely. These areas generally are the result of severe or repeated mechanical perturbation. Onsite, disturbed habitat is present in two narrow strips, both trending in an east-west direction. The southern swath consists of a narrow footpath, while the northern strip is covered by a thin layer of gravel which has prevented the growth of vegetation.*

The Impact Sciences report identifies the entire site as disturbed southern foredune. The report states:

*Plant species, topography, and substrate of the site are characteristic of disturbed Southern Foredunes (California Department of Fish and Game [CDFG], 2003). This community is moderate-to-heavily disturbed, having been invaded, either accidentally or intentionally, with non-native species. The species present on the site can be divided into three groups: native dune scrub species, non-native invasive grasses and forbs, and landscape materials from adjacent residences, all of which can be included within the disturbed southern foredune community.*

The report notes that invasive grasses and forbs, primarily iceplant (*Carpobrotus edulus*) cover approximately 50% of the site; native dune scrub species cover approximately 30% of the site; landscape or ornamental species cover approximately 5% of the site; and the remaining 15% of the site is unvegetated. The report notes:

***Other disturbances to the site include deposition of some gravel on the northwest part of the site, scattered broken building tiles and glass, some asphalt and the washings of a concrete truck in evidence, and considerable pet wastes.***

The biological reports identified no rare, endangered, or special status plant or animal species on the site. The Impact Sciences report notes:

***Wildlife on the site is limited by the surrounding existing development (with residences on three sides, a public walkway and a street and a sidewalk), the size of the undeveloped lot, lack of cover, the use of the area for walking and exercising pets by the surrounding residents, and the lack of any connectivity to other open space habitat. There is the potential use of the site by various insects and small lizards....but any populations of these species are likely restricted by the size of the site and by adjacent land use, and none were observed on the site. One bird species, a Mourning dove (*Zenaida macroura*), was observed on the site, and other transient birds can be expected to land on the site occasionally. Birds adapted to urban conditions and shore birds can be expected to be observed, due to the proximity of the shoreline. No nesting or significant use of the site is likely due to the lack of cover and proximity to and continued disturbances from adjacent residents.***

The Impact Sciences report concludes:

***The Whitecap Street site is situated on an isolated remnant of southern foredunes. The site is bounded on three sides by existing residential development and on the fourth side by Whitecap Street...This disturbed site is physically separated from other large intact open space dune areas, specifically the beach to the west, the dunes between Reliant Energy Canal and Harbor Boulevard to the east. In general, the dunes on this site have a very limited potential to support a common or special-status species.***

***In this case, the subject site does not amount to an environmentally sensitive habitat area due to isolation and alteration of the biota and natural functions. The site has been modified by various kinds of impacts, from vehicle use, deposition of gravel, and the introduction of non-native plants. The plant community is largely exotic and depauperate. As indicated, the annual, non-native forbs on site have invaded and dominated much of the remaining foredunes habitat. No special-status species were found by either Impact Sciences or by the earlier study by Dudek & Associates. Normal processes of dune communities and prevailing winds, which functions in the replenishment and sculpting of the sand topography are precluded due to isolation or blockage from sources of material by residential development. Finally, this small fragment is spatially isolated from natural communities by residential development, and the divided streets bordering the site.***

The Dudek & Associates Report concludes:

***The proposed subdivision would impact the entire project site: 1.06 acres of disturbed southern foredune, 0.21 acre of ornamental land, and 0.19 acre of disturbed habitat.***

***Impacts to 1.06 acres of disturbed southern foredune are considered significant, and mitigation is recommended. Due to the disturbed and isolated nature of the habitat, mitigation should occur offsite and at a ratio of 1:1. Mitigation could be in the form of dune enhancement or restoration through removal of exotic plant species at a location to be determined in coordination with the U.S. Fish and Wildlife Service, California Department of Fish and Game, City of Oxnard, and/or California State Parks. Impacts to ornamental land and disturbed habitat are not considered significant and do not require mitigation.***

Staff visited the site in August 2005 and March 2006. At that time, the site was blanketed with ice plant, and ornamental plants and lawn furniture were observed along the concrete walkway that runs along the northern border of the site, adjacent to the back fences of several residences that front on Seabreeze Way. Some construction debris (such as chunks of concrete and asphalt) and other discarded items were also found on the site. It was apparent that people and pets had regularly used the site, as evidenced by two footpaths that traverse the site from east to west. However, in recent weeks local residents have removed debris, ornamental plants, lawn furniture and most of the iceplant on the site, leaving primarily native dune vegetation.

The Commission's biologist, Dr. John Dixon visited the site in July 2006. The site visit confirmed that although the site is disturbed, and surrounded by residential development, it retains significant habitat value. In contrast to the Breaker's Way parcel, the site contains areas of dune topography, vegetated with native southern foredune species. In addition, two special-status species have been observed on the site, and provides suitable habitat for a third special-status species.

Staff observed two Long-billed Curlews (*Numenius americanus*) foraging on the site during the March 2006 site visit. Long-billed Curlews are listed as a Species of Special Concern by the California Department of Game. Long-billed Curlews do not breed in southern California, and tend to flock on their wintering grounds, so it is likely that the birds use the site solely as a foraging area. The Impact Sciences report notes that

***...shorebirds can be expected to be observed on the site, due to the proximity of the shoreline. No nesting or significant use of the site is likely due to the lack of cover and proximity to and continued disturbances from adjacent residents.***

Nonetheless, although they do not likely inhabit the site, the presence of the Long-billed Curlews indicates that the site retains some habitat value for special status coastal wildlife.

On July 2, 2006 local residents observed and photographed a Coast Horned Lizard (*Phrynosoma coronatum*) on the site (**Exhibit 13**). Coast Horned Lizards are listed as a Species of Special Concern by the California Department of Game, and as a Federal Special Concern species by the United States Department of Fish and Wildlife.

In addition, Dr. Lawrence Hunt, an authority on the Silvery Legless Lizard (*Anniella pulchra pulchra*) has visited the site and has stated in his July 17, 2006 letter to the Commission that the site provides "good-quality habitat" for the lizard. Dr. Hunt's report states that he did not observe any lizards on the site, but notes that

***This is the wrong time of year to be looking for this species near the surface. Near-surface activity of legless lizards is correlated with seasonally low soil temperatures and elevated soil moisture (Hunt, L.E. 1997. Geostatistical modeling of species distributions: Implications for ecological and biogeographical studies. Pp. 427-438,***

***In: Soares, A. et al. (eds.). Geostatistics for Environmental Applications, Kluwer Acad. Press, New York. 503 pp.). Search efforts have the greatest likelihood of finding this species between December and May. The failure to find legless lizards last week does not mean they are absent from the site.***

Dr. Hunt concludes that:

***For its inherent quality as foredune habitat, its relatively large size in relation to what remains of this type of habitat in this area, and its place in the larger context of coastal dune landforms, I urge the Commission to retain the current zoning status on the subject parcel.***

The California Department of Fish and Game (CDFG) states in its July 24, 2006 letter:

***The Department believes that the potential for both Coast Horned Lizard and Silvery Legless Lizard to exist on this and other remnant foredune habitats in the Oxnard area to be high.***

CDFG notes that both species have been repeatedly found on nearby sites, and that several Coast Horned Lizards of various age classes were found on a smaller remnant foredune that was also surrounded by residential development.

As noted above, given the rarity of dune habitats across the state, the Commission has considered dunes, even those that are significantly degraded, to meet the definition of ESHA, if they retain some connection to the beach or other dune areas, or if they are inhabited by plants or animals that are rare, endangered, or have other special status. As described above, there has been ongoing disturbance on the subject site since before 1972. The mass grading and development of the suburban-level subdivision that was carried out in the Oxnard Shores area prior to 1972 resulted in the loss of dune topography across this entire area, including the subject site. However, aerial photographs from 1979 indicate that some dune topography had been reestablished, most likely facilitated by the site's proximity to the beach and the relative sparseness of residential development at that time. Today, dune topography is still evident on the subject site, although residential development partially obstructs wind transport of sand from the beach, with the exception of through an approximately 60 foot wide street end (Wavecrest Way) that provides an open corridor between the site and the beach. Staff observed that a new beachfront home is being constructed opposite that street end, reducing the existing gap to approximately 30 feet wide, thus still allowing for some transport of sand onto the subject site.

In this case, based on the available information, the Commission concludes that although the subject site is surrounded by existing development, isolated from any nearby dune habitats, and significantly disturbed, it does contain significant habitat value, as discussed in the July 26, 2006 memo from Commission biologist John Dixon. The site consists of disturbed southern foredune habitat, and contains significant areas of dune topography and native dune vegetation. In addition, two species of special concern have been observed on the subject site and the site provides suitable habitat for a third species, the Silvery Legless Lizard. Therefore, due to rarity of coastal foredune habitat and because of the important ecosystem function of providing habitat for special status species, the Commission finds that the Whitecap site is ESHA.

Section 30240 of the Coastal Act, which is incorporated by reference into the certified LUP, prohibits development within ESHA except for uses that are dependent on the resource. As single-family residences do not have to be located within ESHA to function, single family

residential use is not a use dependent on ESHA resources. Thus the proposed amendment to change the zoning designation of the Whitecap Street parcel to Single Family Beach (R-B-1) is inconsistent with Section 30240 of the Coastal Act.

The City has proposed to restore and enhance a 6.34 acre property (identified as Assesor's Parcel Nos. 196-0-010-145, 196-0-010-155, and 196-0-010-165) as mitigation for the loss of disturbed southern foredune habitat on the Whitecap Street site. The proposed mitigation site is located in a dune complex south of Fifth Street and east of Harbor Boulevard, approximately ½ mile from the Whitecap Street site. The proposed mitigation site is designated and zoned RP - Resource Protection in the certified LCP, and is identified as a sensitive habitat area in the certified LUP. According to a April 26, 2006 report by Impact Sciences, Inc., the property contains primarily southern foredune habitat that has been disturbed by off-road vehicle use, as well as arroyo clumps in interdunal areas. However, the Commission cannot accept mitigation for loss of ESHA if it is possible, as in this case, to avoid impacts to ESHA.

Thus in order to ensure that the Whitecap Street parcel ESHA is protected, it is necessary to modify the proposed amendment with the language shown in **Suggested Modification No. 1**. **Suggested Modification No. 1** requires the City to Delete the proposed zoning change of Tract No. 5064 (APN 191-082-07) from RP (Coastal Resource Protection) to R-B-1 (Single Family Beach), and retain the RP zoning designation on parcel APN 191-082-07. **Suggested Modification No. 1** will thus ensure that the proposed amendment is consistent with Section 30240 of the Coastal Act. In addition, staff recommends that the City submit an amendment to the certified Land Use Plan (LUP) changing the land use designation of the parcel to Resource Protection.

## **Conclusion**

In summary, the parcel located on Breakers Way is surrounded by existing development, is highly disturbed, does not maintain viable connections to the beach or other dune communities, and is not inhabited by rare or endangered plant or animal species. Thus it does not meet the Coastal Act definition of Environmentally Sensitive Habitat Area (ESHA). Therefore, the proposed zoning map amendment from "Resource Protection (RP)" to "Single Family Beach (R-B-1)" on this parcel will not result in impacts to ESHA, and is thus consistent with the ESHA policies of the certified Land Use Plan. In contrast, the parcel located on Whitecap Street, while disturbed and surrounded by residential development, does retain significant habitat value and does meet the Coastal Act definition of Environmentally Sensitive Habitat Area (ESHA). In order to ensure that the Whitecap Street site ESHA is protected, consistent with Section 30240 of the Coastal Act, **Suggested Modification No. 1** requires the City to delete the proposed zoning change of the parcel and retain it in the "Resource Protection (RP)" zone district. Only as so modified, the proposed amendment is consistent with the policies of the certified Land Use Plan concerning new development.

## **3. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Pursuant to Section 21080.9 of the California Environmental Quality Act ("CEQA"), the Coastal Commission is the lead agency responsible for reviewing Local Coastal Programs for compliance with CEQA. The Secretary of Resources Agency has determined that the Commission's program of reviewing and certifying LCPs qualifies for certification under Section

21080.5 of CEQA. In addition to making the finding that the LCP amendment is in full compliance with CEQA, the Commission must make a finding that no less environmentally damaging feasible alternative exists. Section 21080.5(d)(2)(A) of CEQA and Section 13540(f) of the California Code of Regulations require that the Commission not approve or adopt a LCP, "...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."

The proposed amendment is to the City of Oxnard's certified Local Coastal Program Implementation Ordinance (Coastal Zoning Ordinance). The Commission originally certified the City of Oxnard's Local Coastal Program Land Use Plan and Implementation Ordinance in 1982 and 1985, respectively. For the reasons discussed in this report, the LCP amendment, as submitted is inconsistent with the applicable policies of the Coastal Act, as incorporated by reference into the Land Use Plan, and the certified Land Use Plan and feasible alternatives are available which would lessen any significant adverse effect which the approval would have on the environment. The Commission has, therefore, modified the proposed amendment to include such feasible measures adequate to ensure that such environmental impacts of new development are minimized. As discussed in the preceding sections, the Commission's suggested modifications bring the proposed amendment into conformity with the Coastal Act and certified Land Use Plan. Therefore, the Commission finds that the LCP amendment, as modified, is consistent with CEQA and the Land Use Plan.

**[Link Here to Part 1 of the Exhibits](#)**

**[Link Here to Part 2 of the Exhibits](#)**