CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA 7575 METROPOLITAN DRIVE, SUITE 103 SAN DIEGO, CA 92108-4402 (619) 767-2370



Fri 22a

Addendum

November 8, 2007

To: Commissioners and Interested Persons

From: California Coastal Commission

San Diego Staff

Subject: Addendum to **Item F22a**, Coastal Commission Permit Application

#A-6-CII-00-87-A1 (Carlsbad Golf Course), for the Commission

Meeting of November 16, 2007.

On Page 4 of the staff report, staff recommends the following be added before Special Condition #15 as follows:

Unless specifically altered by the amendment, all standard and special conditions previously applied to Coastal Development Permit A-6-CII-00-87 remain in effect. In addition, one new special condition (Special Condition #15) is hereby imposed as a condition upon the proposed project as amended pursuant to CDP A-6-CII-00-87-A1.

The following shall be added as new Special Condition #15:

15. <u>Condition Compliance</u>. Within 90 days of Commission action on this coastal development permit amendment application, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that the applicants are required to satisfy prior to issuance of this permit amendment. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

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CALIFORNIA COASTAL COMMISSION

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



F22a

Staff: Toni Ross-SD Staff Report: October 25, 2007 Hearing Date: November 16, 2007

AMENDMENT REQUEST STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: A-6-CII-00-87-A1

Applicant: City of Carlsbad Agent: John Cahill

Original

Description: Development of an 18 hole championship golf course, clubhouse, parking

lot, maintenance facilities, driving range, conference center and pads for

future industrial/golf related uses on 397 acre site.

Proposed

Amendment: An after-the-fact approval for the expansion of Hole 18 and the

construction of an additional golf maintenance and emergency access route resulting in modifications to the approved on-site habitat preserve.

Site: North of Palomar Airport Road and east and west of College Boulevard,

Mello II, Carlsbad, San Diego County. APN 155-104-04

Substantive File Documents: Certified City of Carlsbad Local Coastal Program, Certified

City of Carlsbad Habitat Management Plan, Appeal file A-6-CII-087, Biological report titled "Carlsbad Municipal Golf Course Coastal Development Permit No. 6-CII-00-087-A1" prepared by Dudek, dated

March 2007.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed project, with special conditions. The proposed amendment includes changes to the open space preserve areas originally approved by the Commission in 2003. The applicant has modified the course to expand Hole 18 and add an additional course maintenance and emergency access route. All impacts to the designated preserve areas have been replaced in other locations on site. The modifications to the preserved area will not result in any reductions to preserved areas or buffers, nor will there be any net loss in habitat values, corridor linkages, or any reduction in the long-term viability of the habitat. A special condition has been recommended to require the applicant to submit an updated set of final plans, showing the modifications to preserved habitat. A second special condition has been

recommended for the re-recording of an Open Space Offer to Dedicate. As such, there will be no impacts to sensitive habitat and, therefore, the proposed amendment is consistent with all applicable City of Carlsbad certified LCP policies and all applicable Coastal Act policies.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: I move that the Commission approve the proposed

amendment to Coastal Development Permit No. A-6-CII-00-87 pursuant to the staff recommendation.

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of the certified Local Coastal Program. Approval of the permit amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The following shall replace Special Condition #1 of CDP A-6-CII-00-087 in its entirety:

1. Final Development Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, The applicant shall submit to the Executive Director for review and written approval, detailed final plans for the proposed development that include site, building, grading and drainage plans. Said plans shall be in substantial conformance with the plan entitled "City of Carlsbad Golf Course

Revisions" submitted with LCPA 1-03B (Habitat Management Plan) on February 7, 2003 and shall comply with the following:

- a. There shall be no impacts to southern maritime chaparral habitat within the Coastal Zone portion of the project. Impacts to coastal sage scrub shall be consistent with the approved development plan and shall be mitigated as addressed in Condition #2 below. Any temporary impacts to wetland and/or riparian areas for the purpose of constructing golf cart path crossings shall be restored as addressed in Condition #3 below.
- b. The conservation and development areas for the golf course property shall be consistent with the golf course hardline map (Figure 8 Revised) in the City of Carlsbad Habitat Management Plan (HMP) **AND** the modifications to the habitat preserve addressed through amendment A-6-CII-00-87-A1 (ref. Exhibit #4). Areas shown for conservation shall not be impacted or disturbed except for revegetation, restoration and other similar activities related to mitigation. Areas shown for impact may be fully developed with appropriate mitigation.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

The following shall replace Special Condition #10 of CDP A-6-CII-00-087 in its entirety:

- 10. Open Space and Conservation Easement.
 - A. No development, as defined in Section 30106 of the Coastal Act, shall occur in those areas indicated as Preservation Areas in Exhibit 7 (City Golf Course, Revised Figure 8 of the Carlsbad HMP, CAR LCPA 1-03B, and modified by Exhibit #4 of CDP Amendment #A-6-CII-00-87-A1.
 - B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a the California Department of Fish and Game and the U.S. Fish and Wildlife Services, or their successor agencies, an open space and conservation easement over all onsite habitat preservation areas, and all mitigation areas (onsite and/or offsite) that will be utilized to address onsite impacts to habitat. The recorded document shall supersede and replace Document #2005-0216282, recorded on March 16, 2005 in the San Diego County Recorder's Office. The recorded document shall include legal descriptions of both the applicant's entire parcel and the easement

- area(s). The recorded document shall also reflect that development in the easement area(s) is restricted as set forth in this permit condition.
- C. The offer to dedicate shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

The following shall be added as new Special Condition #15:

15. Condition Compliance. Within 90 days of Commission action on this coastal development permit amendment application, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that the applicants are required to satisfy prior to issuance of this permit amendment. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. The proposed project is an amendment to appeal A-6-CII-00-87 approved by a de novo hearing August of 2003. This approval was for the construction of a championship municipal golf course and associated uses on a 397 acre site in the City of Carlsbad. At the time of approval the site was vacant and contained sensitive habitat. The original design for the golf course was later modified through an amendment to the City's certified LCP and certification of the City's Habitat Management Plan (HMP). The modifications to the original design allowed for additional habitat to be preserved, and eliminated all wetland and riparian impacts within the coastal zone. The project as approved resulted in impacts to 14.2 acres of Coastal Sage Scrub. All impacts were mitigated at a 2:1 ratio with at least 1:1 new creation. All mitigation was accomplished on site.

The proposed amendment for this permit includes modifications to the preserve areas located within and surrounding the golf course. These modifications include the expansion of Hole 18 and the construction of a course maintenance and emergency access route. The Hole 18 expansion will result in the removal of 1.74 acres from the preserved area and the construction of the emergency access path will result in the removal of .13 acres from the preserved habitat. These preserve areas will be substituted through the protection of an additional 1.903 acres of habitat located within the golf course, thus resulting in an increase in total habitat preserved onsite. Construction of the golf course is complete and includes these modifications. The applicant is seeking an after-the-fact approval.

The site is located north of Palomar Airport Road, south of Faraday Ave, east of Hidden Valley Road and extends on both sides of College Boulevard. The project site is located both in and out of the coastal zone, with approximately two-thirds of the site located within the coastal zone. The site contains Coastal Sage Scrub, riparian areas and wetlands. The project is immediately east of Carlsbad Ranch/Legoland and west of the Carlsbad Research Center and Palomar Airport Road. Portions of the site are within Phase II of the Carlsbad Airport Center, College Business Park, and the southern section of Veteran's Memorial Park.

The project is traversed by three electrical transmission lines (which are carried on poles and towers) and a 20-inch gas pipeline. The utility lines cross the middle of the site from the southeast to the northeast sections. The gas pipeline traverses the northern portions of the site generally paralleling and then crossing the riparian area.

The subject site is within the City's coastal development permit jurisdiction but in this particular case, the City's approved coastal development permit was appealed to the Coastal Commission. On June 27, 2000, the Commission found the appeal to raise a substantial issue(s) and approved the permit de novo with several special conditions in 2003. The project amendment modifies the conditions approved for the CDP and therefore requires an amendment. As such, it is reviewed by the Commission, utilizing the certified LCP and the public access policies of the Coastal Act as the standard of review.

2. Habitat Management Plan (HMP) History. In 1992, the City of Carlsbad signed a Natural Communities Conservation Planning (NCCP) agreement with California's Resource Agency to develop a Habitat Management Plan (HMP) as part of the City's General Plan. This HMP, which includes the 397 acre golf course property, was developed to meet the requirements of the Coastal Act, the Endangered Species Act and the Natural Communities Conservation Planning (NCCP) process and to work in conjunction with the Multi Habitat Conservation Program for San Diego County. The objectives of the Southern California NCCP Program include identification and protection of habitats in sufficient amounts and distributions to enable long-term conservation of the coastal sage scrub community and the California gnatcatcher, as well as other sensitive habitat types. Generally the purpose is to preserve the most valuable natural habitat by identifying an interlinked natural communities preserve system.

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. With the addition of the HMP as a part of the certified LUP, the City's LCP now contains habitat protection requirements and conservation standards applicable to certain properties (most of which are undeveloped) within the Carlsbad coastal zone, to concentrate development on portions of the site containing the least amount of sensitive habitat and limiting the developable area.

The Coastal Development Permit for the golf course was already in its review stage during the certification of the HMP. Specific provisions for the golf course were subsequently added to the HMP to reach conformity between the CDP permit and the HMP. Revisions were made to the project to decrease impacts, and a "hardline" was approved separating the preservation areas from the golf course and preserved areas are protected by an open space/conservation easement. During the approval of the CDP for the golf course, special conditions were approved to restrict any future development within these preservation/mitigation areas, and because the applicant is now requesting modification to these open space/conservation areas, an amendment to the CDP will also be required.

3. <u>Environmentally Sensitive Habitat</u>. Both the certified City of Carlsbad Land Use Plan (LUP) as well as their certified Habitat Management Plan (HMP) has applicable policies pertaining to the protection of environmentally sensitive habitat and state in part:

Policy 3-1 of the LUP states in part:

Certain areas in Carlsbad coastal zone have very high habitat value. These areas are not suitable for farming. These areas exhibit a large number and diversity of both plant and animal species, several of which area threatened because of extensive conversion of mixed Chaparral and Coastal Sage Scrub......Section 30240(a) of the Coastal Act established a specific mandate for resource prevention. It states in part "(e)nvironmentally sensitive habitat areas shall be protected against any significant disruption of habitat values..." Environmentally sensitive habitat area (ESHA) is defined in Section 30107.5 of the Coastal Act as "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 should be easily disturbed or degraded by human activities and developments."

Policy 3-1.2 of the Mello II LUP and 7.1 of the HMP state, in part:

Pursuant to Section 30240 of the California Coastal Act, environmentally sensitive habitat areas, as defined in Section 30107.5 of the Coastal Act, shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

Policy 3-1.3 of the LUP and 7-2 of the HMP state, in part:

Coastal Sage Scrub is a resource of particular importance to the ecosystem of the Costal Zone, due in part to the percentage of the Costal California gnatcatcher (Federal Threatened) and other species. Properties containing Coastal Sage Scrub shall conserve a minimum of 67% of the Coastal Sage Scrub and 75% of the gnatcatchers onsite. Conservation of gnatcatchers shall be determined in consultation with the wildlife agencies.

Policy 3-1.9 of the Mello II LUP and 7-8 of the HMP state, in part:

There shall be no net loss of Coastal Sage Scrub, Maritime Succulent Scrub, Southern Maritime Chaparral, Native Grassland, and Oak Woodland within the Coastal Zone of Carlsbad. Mitigation for impacts to any of these habitat types, when permitted, shall include a creation component that achieves the no net loss standard. Substantial restoration of highly degraded areas (where effective functions of the habitat type have been lost) may be substituted for creation subject to the consultation of the U.S. Fish and Wildlife Service and the California Department of Fish and Game (wildlife agencies). The Coastal Commission shall be notified and provided an opportunity to comment upon proposed substitutions of substantial restoration for the required creation component. Development shall be consistent with Policy 3-1.2 of this section, unless proposed impacts are specifically identified in the HMP; these impacts shall be located to minimize impacts to Coastal Sage Scrub and maximize protection of the Coastal California gnatcatcher and its habitat.

Policy 3-7 of the Mello II LUP and Section 7-13 of the HMP state, in part:

- a. The impact and conservation areas for the municipal golf course are shown as a Hardline design in the HMP (Figure 8 Revised), and which shall serve as the standard of review for determining areas in which development may occur in future. Areas shown for conservation shall not be impacted or disturbed except for revegetation, restoration, and other similar activities related to mitigation. Areas shown for impact may be fully developed with appropriate mitigation.
- b. Any impacts to Coastal Sage Scrub shall be mitigated by on-site creation at a ratio of 2:1 in compliance with the no net loss standard stated in Policy 3-1.2 (7-1). Onsite revegetation or restoration may be done on agricultural, disturbed or non-native grassland areas. For impacts to the Coastal California gnatcatcher, additional mitigation shall be provided by acquisition and preservation at a 1:1 ratio of land supporting gnatcatchers. Impacts to dual criteria slopes shall not exceed 10%.

As described above, the construction of the golf course was permitted by a Commission issued Coastal Development Permit (reviewed on appeal) in 2003. Since this time, the golf course has completed construction and is now open to the public. During construction, modifications were made in the field to allow for the expansion of Hole 18 and the addition of a course maintenance/emergency access route. These changes occurred in areas protected by both "hardlines" within the HMP and special conditions for the CDP approved in 2003. The modifications made to the golf course resulted in the removal of .13 acres of preserved area associated with the construction of the emergency access route, and 1.74 acre of preserved habitat removed for the expansion of Hole 18. The applicant subsequently added 1.903 acres (an addition of .033 acres) of open space into the existing preserved habitat to compensate for the preserved habitat reduction. Commission staff became aware of these modifications while reviewing final plans submitted for condition compliance. The applicant was notified that these modifications would require an amendment to their permit. On October 6, 2006 the applicant submitted

the request for an amendment. However, the biological impacts for these modifications were not determined, and the application was non-filed pending submittal of updated biological information pertaining to the proposed changes. The required information was submitted to Commission staff on June 15, 2007.

The biological report concludes that the modifications made would not result in the development of ESHA, or the substitution for less valuable habitat. The gently sloping area removed from the HMP for the Hole 18 expansion was mapped as non-native grassland. This habitat is of little value for most of the typical Diegan coastal sage scrub wildlife species and contained no sensitive plant species. Non-native grasslands do not support habitat components necessary to support the biological needs of the California gnatcatcher. Because the vegetation is neither sensitive itself nor provides habitat for protected wildlife, this area would not have been considered ESHA, as defined by Public Resources Code Section 30107.5. Further, the golf course plans did not call for this area to be used for Diegan coastal sage scrub mitigation or revegetation, so it would have remained in its weedy, non-native condition without the expansion of Hole 18. The area impacted for the construction of the emergency access route was also vegetated with non-native grasslands and as such habitat functions and values for this area were also limited.

Further, as approved by the Commission, Hole 18 is directly adjacent to ESHA, with no biological buffer. Given the passive nature of golfing, it was determined that the disruption associated with the golf course would not be significant enough to require a buffer. Further, the golf course is a vegetated area and would therefore not have the same development impacts associated with the development of structures directly adjacent to ESHA. Because there is no buffer between Hole 18 and ESHA, the expansion of Hole 18 will not result in impacts on necessary biological buffers.

The construction of the emergency access route is also located adjacent to sensitive habitat. This approximately 350 foot-long access path connects two previously approved paths. The approved paths are also located adjacent to the sensitive habitat; therefore the construction of the course maintenance/emergency access route would not result in any impacts to buffers approved by CDP A-6-CII-00-087.

There are seven areas to be utilized to replace the preserve areas removed by development modifications (ref. Exhibit #4). These areas were mapped as a combination of non-native grassland, Diegan coastal sage scrub, landscaping and agricultural land. For the areas of coastal sage scrub, these areas would serve as superior preserve habitat than the areas associated with Hole 18 expansion and the emergency access route. Further, the non-native grassland, agricultural land and landscaping portions of the added HMP lands have been planted with Diegan coastal sage scrub. Therefore, all land being added to the HMP will be of equal or greater value to the areas removed for development. The Commission's Staff ecologist has reviewed the biological report documenting these modifications and agrees with the conclusions.

Special Condition #1 requires that the applicant submit finals plans demonstrating all modifications made to the preserve habitat associated with this amendment. The plans

shall indicate that no impacts to southern maritime chaparral habitat have occurred in the Coastal Zone, and that development is located only within the areas originally approved by permit A-6-CII-00-87, and in the areas approved by this amendment. Special Condition #2 provides that, consistent with Policy 7-1.10.i of the Mello II LUP and Section 7-9.h. of the Carlsbad HMP, all onsite habitat preservation areas and all mitigation areas (onsite and offsite) that will be utilized to address onsite impacts to habitat, shall be secured with conservation easements in favor of the California Department of Fish and Game and the U.S. Fish and Wildlife Service. An Open Space Offer to Dedicate was recorded in the San Diego County Recorder's Office on March 16, 2005, however, this offer to dedicate has not been picked up by either wildlife agency to date. Special Condition #10 requires the applicant to re-record the Offer to Dedicate Open Space showing the modifications to the preserved area associated with this amendment. Special Condition #15 requires that the applicant complete Special Condition Nos. 1 & 10 within 90 days of Commission action.

In conclusion, because the areas removed for development are not currently functioning as ESHA, nor were proposed to be revegetated to be allowed to function as ESHA in the future, no impacts to habitat have resulted from the modification associated with the expansion of Hole 18 and the construction of the course maintenance/emergency access route. Also, because the project was originally approved without buffers to adjacent habitat in these areas, there will be no impacts to required buffers. Lastly, the areas chosen to replace these modified preserve regions either currently do function as sensitive habitat or will be planted with coastal sage scrub, to allow for future sensitive habitat growth. These replacement areas will therefore result in larger and higher quality habitat preservation. Special Condition #1 requires the applicant to submit final plans showing the modifications to the preserved habitat areas. Special Condition #10 requires that the applicant re-record the Open Space Offer to Dedicate, including the modifications made through the approval of this amendment. The amendment can therefore be found consistent with the sensitive habitat policies of both the City's Certified LUP and HMP.

- 4. <u>Public Access.</u> Because the development is located between the first public road and the sea, a public access finding must be made. The proposed golf course development is a municipal recreational facility, which will be open to the public and will increase recreational opportunities in the coastal zone. The golf course site is inland from the coast, and the proposed development will not affect public access to the coast or impact existing coastal recreational opportunities or uses. Therefore, the projects is consistent with the public access policies of the Coastal Act.
- 5. <u>Unpermitted Development</u>. Unpermitted development has occurred on the subject site without the required coastal development permit (CDP) amendment in that the proposed development has already been completed. The unpermitted development consists of the modification of vegetation from approved preserve areas to developed areas. Specifically, the project expanded the 18th Hole and constructed an additional emergency access route on a municipal golf course. However, other areas were preserved in lieu of the areas approved by the CDP.

Although development has taken place prior to submission of this amendment application, consideration of this application by the Commission has been based solely upon the policies and provisions of the certified LCP as well as the public access policies of Chapter 3 of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

6. <u>Local Coastal Planning</u>. As noted above, the project site is located north of Palomar Airport Road, south of Faraday Avenue, east of Hidden Valley Road, and extends on either side of College Boulevard, and is within the jurisdictional area of the Mello II Land Use Plan segment of the Carlsbad LCP. The Commission has certified the Mello II Land Use Plan and Implementation Program for this LCP segment. The Carlsbad HMP is also a part of the certified LCP. The certified HMP has guidelines pertaining to modification made to hardline preserve areas. The HMP states that minor amendments can be processed through equivalency findings. These guidelines state:

Minor changes to HMP maps to show actual, precise boundaries of conserved habitat, and which do not reduce the acreage and quality of the habitat will be treated as automatic amendments under Equivalency Finding. The City will provide written notice of the Equivalency Findings to USFWS and CDFG, and unless USFWS and CDFG object within 30 days after notification, the change will be considered approved. If objections are raised, the City will meet with the agencies to resolve the issue; and written approval of the resulting change will be required.

The applicant submitted the project modifications to the City Planning Department as well as the wildlife agencies. The project modifications were reviewed by both USFWS and CDFG. The wildlife agencies did not object to the modifications proposed. On May 25, 2006 the applicant was notified that the Equivalency Findings had not been objected to and therefore the minor adjustments to the HMP preserve boundaries had been approved. Therefore, the proposed development can be found consistent with the Mello II LUP, the Carlsbad HMP, and all applicable Chapter 3 policies of the Coastal Act. The project will not have any impacts on coastal resources and will not prejudice the ability of the City of Carlsbad to continue to administer its certified Local Coastal Program for the area.

7. <u>California Environmental Quality Act</u>. Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the

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environment. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

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