

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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Th14c

Addendum

July 8, 2011

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item Th 14c**, Coastal Commission Permit Application
#A-6-CII-00-087-A2 (Carlsbad golf course emergency access), for the
Commission Meeting of July 14, 2011

Through discussions between Commission staff and the City, it was determined that given the previous effort required to have the first Open Space Offer to Dedicate (OTD) recorded, the more appropriate option would be to modify Special Condition #10 to require the applicant to record an *amended* open space OTD as opposed an a new open space OTD. As such, staff recommends the following changes be made to the above-referenced staff report:

1. Modify the Summary of Staff's Preliminary Recommendation, beginning on Page 1, as follows:

Staff is recommending approval of the proposed project, with several special conditions. The proposed amendment includes changes to the open space preserve areas originally approved by the Commission in 2003. The City is proposing to modify the course to add an additional emergency access route between Golf Hole Nos. 2 and 3 (ref. Exhibit #4). The City has indicated that this additional emergency access route is necessary, as none currently exists for this section of the golf course and one is needed because without an established access, each time an emergency occurs in this section of the golf course, emergency vehicles would access the area by driving through sensitive habitat areas. As proposed, the conversion of the designated preserve area associated with the emergency access will be replaced in another location within the golf course site (ref. Exhibit #4). 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 or habitat values, corridor linkages, or any reduction in the long-term viability of the habitat. Staff is recommending updating Special Condition Nos. 1 and 10 to require the applicant to submit an updated set of final plans, and to amend ~~re-record~~ the Open Space Offer to Dedicate incorporating the modifications to preserved habitat associated with the subject amendment. Staff is also recommending two new special conditions....

2. Modify Special Condition #10, beginning on Page 3, as follows:

10. Open Space and Conservation Easement.

A. No development as defined in Section 30106 of the Coastal Act, ~~aside from restoration and maintenance of habitat,~~ shall occur in those areas indicated as Preservation Areas in Exhibit 7 of the original permit (City Golf Course, Revised Figure 8 of the Carlsbad HMP, CAR LCPA 1-03B), ~~and as modified by amendments A-6-CII-00-087-A1 (ref. Exhibit #7), and A-6-CII-00-87-A2 (ref. Exhibit #4)),~~ except for onsite habitat restoration/revegetation activities as part of an approved coastal sage scrub mitigation plan.

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 amending the irrevocable offer offering to dedicate (OTD) to a the California Department of Fish and Game and the U.S. Fish or Wildlife Services, or their successor agencies, an the 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 that was recorded as Document #2005-0216282, recorded on March 16, 2005 in the San Diego County Recorder's Office. The recorded document shall be amended to allow the OTD to be accepted solely by the California Department of Fish and Game and to replace Exhibits C and C-1 of the OTD with a legal description and graphic depiction of the amended easement area, which must be consistent with the depiction of the easement area included as Exhibit 7 of the original staff report (City Golf Course, Revised Figure 8 of the Carlsbad HMP, CAR LCPA 1-03B) as modified in A-6-CII-00-87-A1 (changes shown in Exhibit 7 of this staff report) and A-6-CII-00-87-A2 (changes shown in Exhibit 4 of this staff report). 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.~~

3. Modify the first paragraph of Page 11 as follows:

Special Condition #1 requires that the applicant submit final 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-00-087, amendment A-6-CII-00-087-A1, and in the areas approved by this amendment. In addition, Special Condition #10 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 utilized to address onsite impacts to habitat, shall be secured with conservation easements held by ~~either the California Department of Fish and Game or the U.S. Fish and Wildlife Service.~~ Special Condition #10 requires the applicant to amend ~~re-record~~ the Offer to Dedicate Open Space to include ~~showing~~ the modifications to the preserved area associated with this amendment.

CALIFORNIA COASTAL COMMISSION

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Staff: Toni Ross-SD
Staff Report: June 23, 2011
Hearing Date: July 13-14, 2011

Th14c

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: A-6-CII-00-87-A2

Applicant: City of Carlsbad

Agent: Mike Grim

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: Construction of an additional emergency access route between Golf Hole Nos. 2 and 3 resulting in modifications to the approved on-site habitat preserve.

Site: The Crossings at Carlsbad Municipal Golf Course located 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-00-087, Amendment A-6-CII-00-087-A1, Biological report titled "Carlsbad Habitat Conservation Plan – Biological Equivalency Analysis Report, The Crossing at Carlsbad Holes No. 2 and 3 Emergency Golf Access Path" prepared by Dudek, dated October 2008.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed project, with several special conditions. The proposed amendment includes changes to the open space preserve areas originally approved by the Commission in 2003. The City is proposing to modify the course to add an additional emergency access route between Golf Hole Nos. 2 and 3 (ref. Exhibit #4). The City has indicated that this additional emergency access route is necessary, as none currently exists for this section of the golf course and one is needed because without an established access, each time an emergency occurs in this section of the golf course, emergency vehicles would access the area by driving through sensitive habitat areas. As

proposed, the conversion of the designated preserve area associated with the emergency access will be replaced in another location within the golf course site (ref. Exhibit #4). 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 or habitat values, corridor linkages, or any reduction in the long-term viability of the habitat. Staff is recommending updating Special Condition Nos. 1 and 10 to require the applicant to submit an updated set of final plans, and re-record the Open Space Offer to Dedicate incorporating the modifications to preserved habitat associated with the subject amendment. Staff is also recommending two new special conditions. First, Special Condition No. 16, requiring the applicant include the subject changes into its annual update to the City's Habitat Management Plan (HMP) Figure #8, which is a certified portion of the City's land use plan, to memorialize the changes to the HMP preserve. The second, Special Condition No. 17 will require the applicant to contact the Commission if changes occur to the project during construction. Specifically, as proposed no impacts will occur to the adjacent sensitive habitat. Thus, if changes in the project result in potential impacts to any ESHA area, the conditions of this amendment may need to be revised to incorporate mitigation for said impacts. Thus, as conditioned, there will be no impacts to sensitive habitat and, the addition and protection of the replacement land will be provided in perpetuity.

Standard of Review: The certified City of Carlsbad LCP – Mello II segment.

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.

Special Condition #1b of CDP A-6-CII-00-087, as amended, shall be revised as follows (additions shown in bold and underlined):

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:

[...]

- 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 amendments A-6-CII-00-087-A1 (ref. Exhibit #7), **and A-6-CII-00-087-A2 (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, as amended, in its entirety:

10. Open Space and Conservation Easement.

- A. No development as defined in Section 30106 of the Coastal Act, aside from restoration and maintenance of habitat, 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 amendments A-6-CII-00-087-A1 (ref. Exhibit #7), and A-6-CII-00-87-A2 (ref. Exhibit #4).

- 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 or 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.

Unless specifically altered by the amendment, all standard and special conditions previously applied to Coastal Development Permit A-6-CII-00-087, as amended, shall remain in full force and effect. In addition, two new special conditions (Special Condition Nos. 16 & 17) are hereby imposed as a condition upon the proposed project as amended pursuant to CDP A-6-CII-00-087-A2.

The following shall be added as new Special Condition #16:

16. HMP Figure #8 Update. The applicant will include the revisions resulting from the subject amendment in its update to Figure #8 of the City's Habitat Management Program required to be submitted to the Coastal Commission on an annual basis subject to the Executive Director's review and approval.

The following shall be added as new Special Condition #17:

17. Project Modifications. Only that work specifically described in this permit is authorized. Any additional work requires separate authorization from the Commission or Executive Director, if appropriate. **If, during construction, site conditions warrant changes to the project, the San Diego District office of the Coastal Commission shall be contacted immediately and before any changes are made to the project in the field.** No changes to the project shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is

legally required.

IV. 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 the Commission at a de novo hearing in 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, including Coastal Sage Scrub, riparian areas and wetlands. 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 includes modifications to the preserve and non-preserved areas located within the City's municipal golf course site. These modifications include the removal of a 0.15 acre area currently identified as protected habitat in the City's HMP Hardline preserve to allow for construction of an improved and paved emergency access route between Golf Hole Nos. 2 & 3. Adjacent vegetation is comprised of a mixture of stands of Diegan coastal sage scrub and non-native grasslands. The distance between Hole No. 2 and Hole No. 3 green is approximately 600 feet long by 12 feet wide. Prior to construction of the municipal golf course, the project site contained a network of dirt roads used by the previous property owner for agricultural operation and by San Diego Gas and Electric Company to monitor and maintain the power and gas lines crossing the property. The subject area was one of these historic access roads. The approved plans for the golf course called for this access road to be abandoned and revegetated with drought-tolerant native, or non-invasive plants, but has yet to be revegetated. As such, the area is currently bare ground and contains no sensitive habitat.

As indicated by the City, on July 3, 2007, an airplane crashed on take-off from the adjacent McClellan Palomar Airport on the golf course site. The City contends that this event revealed the need for emergency access to a portion of the golf course that was previously inaccessible to emergency vehicles.

To mitigate for the proposed 0.15 acres removed from the preserve, the City is proposing to include 0.23 acres of mixed non-native grassland and coastal sage habitat that is currently unprotected, into the HMP preserve area within the golf course, resulting in a net increase in the total habitat preserved on site.

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 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 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 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 properties 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 necessary.

3. Environmentally Sensitive Habitat. Both the certified City of Carlsbad Land Use Plan (LUP) as well as its certified Habitat Management Plan (HMP) have 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 are 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 Coastal Zone, due in part to the percentage of the Coastal 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 the 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. As previously stated, in July of 2007, an airplane crashed around the No. 3 green. Through this event, it was discovered that the golf course was lacking emergency access in this portion of the golf course. The City is therefore proposing to remove a section of land from the HMP preserve lands within this area of the golf course to formalize an emergency accessway. In exchange, the City is proposing to include an equivalent area into the HMP preserve to compensate for the lost acreage. Specifically, the City is proposing to remove 0.15 acres of bare ground and include 0.23 acres (+0.08 acres) of mixed Diegan coastal sage and non-native grassland area into the HMP preserve.

The area of loss is a historic SDG&E access road, which was identified as a “revegetation area” in the landscape plans approved by the Commission. Since the time of approval, the City has planted some of these identified revegetation areas. However, the area proposed for the improved accessway has not been revegetated and is currently a dirt road free of any vegetation. This cleared area is of little habitat value for most of the wildlife species that are typically found in Diegan coastal sage scrub and contains no sensitive plant species, and would not support habitat components necessary to support the biological needs of the California gnatcatcher. Because the area is neither sensitive habitat nor provides habitat for protected wildlife, this area is not considered ESHA, as defined in LUP Policy 3-1 .

These “revegetation” areas, per Special Condition #4 of the original CDP, were required to be planted with drought tolerant and native or non-invasive plant species. These

revegetation areas were not associated with any mitigation requirements. Because of the approved vegetation types, no future sensitive habitat was predicted for this region of the golf course. That being said, the City included the area within the City's Habitat Management Plan formal "hardline" preserve area, and therefore requires an amendment to have it removed.

Since the time of the golf course approval, the revegetation efforts have been voluntarily modified by the City from revegetation by a native or non-invasive plant palette, to revegetation solely comprised of Diegan coastal sage plantings. As a result, the subject area, with the exclusion of the dirt accessway, is currently comprised of mixed Diegan coastal sage scrub and grasses and could be considered an Environmentally Sensitive Habitat Area (ESHA). As such, the concern of adequate buffering of the habitat from the access road is of some concern.

When the Commission reviewed the original golf course approval, no buffers to upland habitat were required due to the passive nature of golf. The Commission determined that given the passive nature of golfing, 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. The proposed access route will only be used in emergency situations, and will not accommodate the access desires of the daily golfer. Because there is no buffer requirements for upland habitat, and given the limited necessary use of the road, paving of the emergency access route is not expected to result in impacts on adjacent native habitat areas.

Because the location of the proposed emergency access path is surrounded by sensitive habitat, there is a potential that unforeseen project changes could result in impacts to this adjacent habitat. As such, Special Condition #17 requires that should the project require modification during construction, the City will have to contact the Commission's Executive Director prior to beginning the modified work, in order for the Commission to ascertain whether an amendment to formally review the proposed changes are necessary. Therefore, as conditioned, the project is not expected to result in any unforeseen impacts to the adjacent habitat.

Additionally, the biological report submitted with the proposed amendment indicates that in 2008, a pair of federally protected California gnatcatchers (*Polioptila californica californica*) established a breeding territory in the coastal sage scrub habitat immediately adjacent to the proposed emergency access path. While improving the accessway will not result in any direct impacts to the habitat, the construction noise may disrupt the breeding and nesting behavior of these protected birds. Special Condition No. 11 of the original coastal development permit addresses the protection of the California gnatcatcher and prohibits work to occur between March 15 and August 15 (the customary breeding season) of any year. This amendment request does not modify that special condition and, as such, no grading or paving of the access road will occur during the breeding season, consistent with the City's LCP and the previously approved Coastal Commission CDP.

As previously stated, the modification proposed by the City will result in the removal of 0.15 acres of preserved area associated with the construction of the emergency access route. The applicant is subsequently proposing to add 0.23 acres (an addition of 0.08 acres) of open space into the existing preserved habitat to compensate for the preserved habitat reduction. The City is proposing the replacement acreage in an area within the golf course and directly adjacent to Hole No. 1. This replacement land was originally mapped as non-native annual grassland at the time of the approval for the construction of the golf course. Since that time, the City has elected to revegetate this area with coastal sage scrub species. It is important to include that the revegetation and management of this area **has not been required as mitigation** for any previous impacts to ESHA. Instead, the City has decided to create approximately 8.5 acres of additional sensitive habitat areas within currently unutilized areas of the golf course site. It is the intention of the City to create this as a potential “mitigation bank” (actively managed lands containing sensitive habitat that can be purchased or that can be allocated as mitigation for impacts to sensitive habitat associated with future projects). The Commission has not reviewed this network of land formally, or for approval as a “mitigation bank”, and as such, the merits of this exchange will be based solely on the value of the land specifically proposed associated with this subject amendment.

The biological report indicates that the area is currently in an early stage of conversion to coastal sage scrub and consists of a mix of non-native grasses, annual weeds, and young coastal sage scrub plants. The report also indicates that over the next few years the area will become Diegan coastal sage scrub as the plants grow and mature, and will eventually crowd out most of the annual grasses and other annual weed species. As such, the replacement acres planted with coastal sage scrub species can be found to provide higher habitat value, and this area is also larger in size than the area proposed to be removed from the HMP preserve. Additionally, the replacement area provides higher habitat functions, especially for sage scrub dependent species such as the California gnatcatcher, than the bare ground removed from the preserve for construction of the proposed emergency access route. 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 final 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-00-087, amendment A-6-CII-00-087-A1, and in the areas approved by this amendment. In addition, Special Condition #10 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 utilized to address onsite impacts to habitat, shall be secured with conservation easements held by either the California Department of Fish and Game or the U.S. Fish and Wildlife Service. 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.

Two additional special conditions have been added associated with this amendment. Special Condition No. 16 requires the City to update its Figure No. 8 included in the City's certified HMP, and therefore its LCP. Figure No. 8 is a map exhibiting all the preserve lands held with the HMP. Thus, because the City is modifying these lands, the map needs to be updated to reflect these changes. The Commission has previously required updates to Figure No. 8 (ref. LCPA 2-07B/Kelly JRMC). At this time, the City indicated that updating a map that is an exhibit within a large document each time there is a change could become cost prohibitive. As such, the Commission permitted that modification to the HMP preserve area, and thus Figure No. 8 shall be incorporated and submitted to the Coastal Commission Executive Director on an annual basis, subject to review and approval. Special Condition No. 16 requires that the modifications to the preserve associated with this amendment be included in the City's 2011 update to Figure No. 8. As a result, it will be apparent to any interested party where the most up-to-date protected habitat within the City's golf course is located, consistent with the City's LCP and the previously approved Coastal Commission CDP. Finally, Special Condition No. 17 protects potential impacts to sensitive habitat associated with unpredicted changes to the project during construction, by requiring consultation with the Coastal Commission prior to commencing work.

In conclusion, because the areas proposed for development are not currently functioning as ESHA, nor were required to be revegetated to be allowed to function as ESHA in the future, no impacts to habitat are expected to result from the modification associated with the construction of the course emergency access route. In addition, because the project was originally approved without buffers to adjacent habitat in these areas, there will be no impacts to required buffers. Lastly, the area chosen to replace the modified preserve region currently functions as sensitive habitat and will continue to be monitored, maintained, and, if necessary, re-planted with coastal sage scrub, to allow for future sensitive habitat growth. The replacement area will therefore result in larger and higher quality habitat preservation. As such, all potential impacts to coastal resources have been eliminated and the amendment can therefore be found consistent with the sensitive habitat policies of both the City's Certified LUP and HMP.

4. Public Access. The proposed golf course development is a municipal recreational facility, which will be open to the public and provides 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. Unpermitted Development. Unpermitted development has occurred on the subject site without the required coastal development permit (CDP) in that the some development has been completed without finalizing review by the Coastal Commission. The unpermitted development consists of the modification of vegetation from approved preserve areas to developed areas. Specifically, the applicant 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. The City has

previously submitted an after-the-fact permit request associated with the expansion of the 18th Hole, which was subsequently reviewed and approved by the Coastal Commission in November 2007. However, the City never complied with permit issuance requirements, and as such, that review has yet to be finalized.

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 amendment 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. Local Coastal Planning. 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.

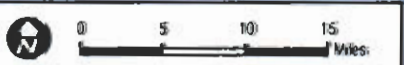
The applicant submitted the project modifications to the City Planning Department as well as the wildlife agencies. The project modifications were reviewed by both USFWS and CDFG. The wildlife agencies did not object to the modifications proposed. On May 14, of 2009, the applicant was notified that the Equivalency Findings had not been objected to and therefore the minor adjustments to the HMP preserve boundaries had been approved.

Additionally, the Commission certified a City of Carlsbad Local Coastal Program land use and zoning amendment in March of 2009 (ref LCPA 2-07B/Kelly JRMC). Associated with this amendment, the Commission recognized that modifications to the preserve boundaries within the HMP needed to be reflected on the certified HMP map (HMP Figure No. 8) on a regular basis. As a result, LCPA 2-07B required the City to annually update its Habitat Management Program Map of preserved habitat and submit the updated maps to the Commission for review and approval. Since the time of Commission approval, the City had submitted two updated maps (for years 2009 and 2010) in compliance to this requirement. Thus, the City has modified its certified map

identifying all of the protected areas to accommodate various new development applications and administrative changes to the certified map. Special Condition No. 16 of this amendment requires that the City include the preserve boundary changes associated with the subject amendment into its annual update, and thus the proposed changes will be memorialized in the City's HMP Figure No. 8. As a result, it will be apparent to any interested party where the most up-to-date protected habitat within the City's golf course is located. As conditioned, the proposed amendment will not result in any impacts to sensitive habitat areas or any other coastal resources and is therefore, consistent with the Mello II LUP and the Carlsbad HMP. Therefore the Commission finds that approval of the proposed amendment, as condition, will not prejudice the ability of the City of Carlsbad to continue to administer its certified Local Coastal Program for the area.

7. California Environmental Quality Act. 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.

The proposed project has been conditioned in order to be found consistent with the biological resource provision of the certified LCP. As conditioned, 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 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.



DUDEK

5938-03

SEPTEMBER 2010

The Crossing at Carlsbad - 2010 California Gnatcatcher Monitoring Report

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EXHIBIT NO. 1
APPLICATION NO.
A-6-CII-00-087-
A2
Location Map

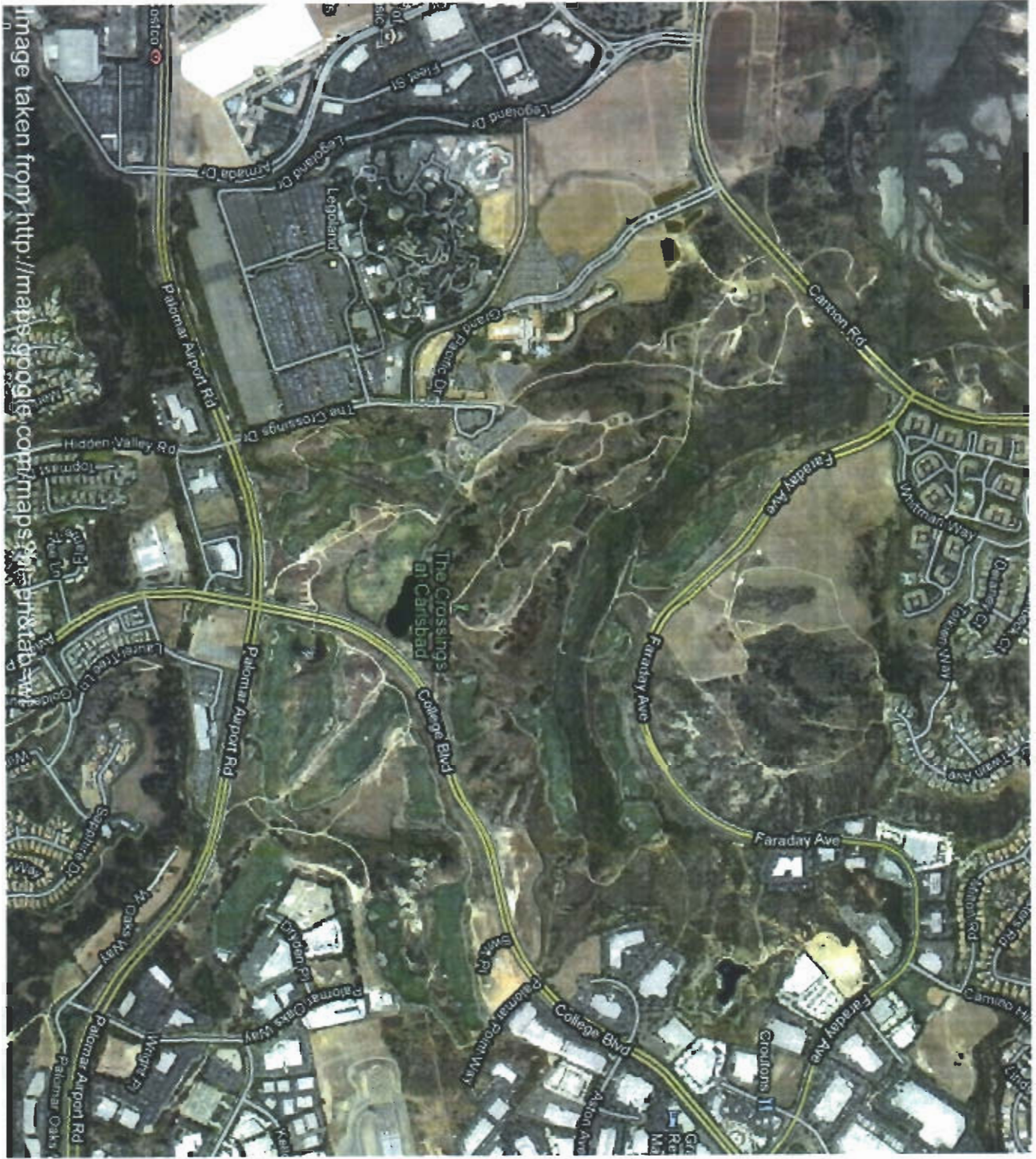
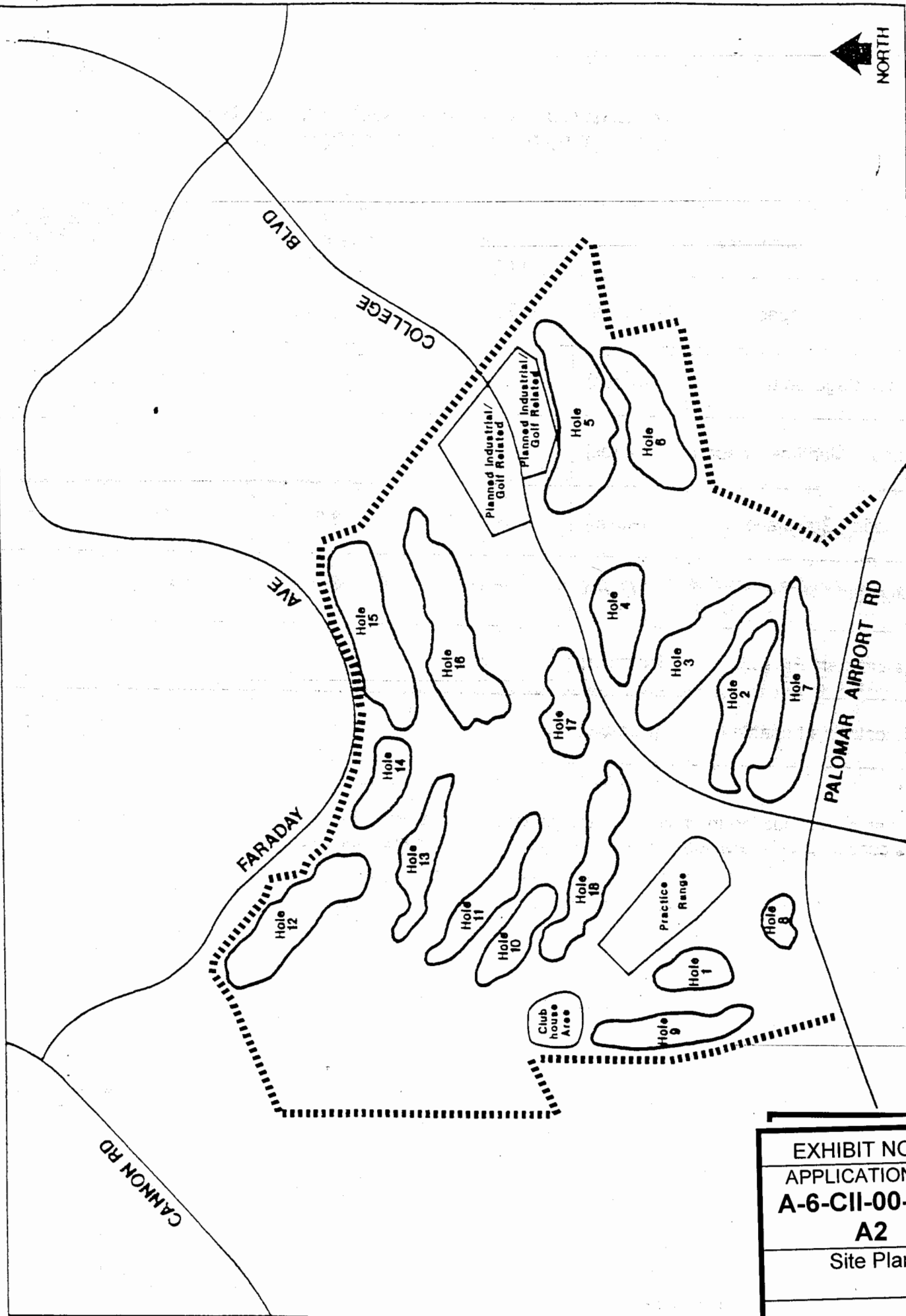


Image taken from <http://maps.google.com/maps/@33.19124,-117.13124,15z>

EXHIBIT NO. 2
APPLICATION NO.
A-6-CII-00-087-
A2
Aerial Photo

ATTACHMENT B
SCHEMATIC



Carlsbad Municipal Golf Course
EIR Addendum 1/22/03

EXHIBIT NO. 3
APPLICATION NO. A-6-CII-00-087-
A2
Site Plan
California Coastal Commission



FIGURE
1

The Crossings at Carlsbad Golf Course
Golf Course HMP Modifications

Photo Geodetic Corp. 2008

VEC
2010

EXHIBIT NO. 4
 APPLICATION NO.
**A-6-CII-00-087-
 A2**
 Proposed HMP
 modifications

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CALIFORNIA COASTAL COMMISSION

San Diego Coast Area Office
 7575 Metropolitan Drive, Suite 103
 San Diego, CA 92108-4421
 (619) 767-2370



Page: 1

Date: August 28, 2003

Permit Application No.: A-6-CII-00-087

COASTAL DEVELOPMENT PERMIT

On **August 8, 2003**, the California Coastal Commission granted to

City of Carlsbad, Attn: Michael Holzmilller

this permit subject to the attached Standard and Special conditions, for development consisting of

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.

more specifically described in the application filed in the Commission offices.

The development is within the coastal zone at

North of Palomar Airport Road and east and west of College Boulevard, Mello II, Carlsbad, (San Diego County)

Issued on behalf of the California Coastal Commission by

PETER M. DOUGLAS
 Executive Director

By: **Keri Akers**
 Coastal Program Analyst

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part that: "A Public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

 Date

 Signature of Permittee

EXHIBIT NO. 5
APPLICATION NO.
A-6-CII-00-087-
A2
Original CDP and Conditions

Date: August 28, 2003

Permit Application No.: A-6-CII-00-087

STANDARD CONDITIONS:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

The permit is subject to the following conditions:

1. **Final Development Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, 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). 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.

2. Mitigation for Upland Habitat Impacts. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final detailed coastal sage scrub mitigation plan. Said plan shall be developed in consultation with the U.S. Fish and Wildlife Service and the California Department of Fish and Game, and shall include the following:

- a. Preparation of a detailed site plan delineating all areas and types of impact to upland habitat species (both permanent and temporary) and the exact acreage of each impact. In addition, a detailed site plan of the mitigation sites shall also be included.
- b. Impacts to coastal sage scrub shall be mitigated at not less than a ratio of 2:1.
- c. Mitigation methods shall be consistent with those approved in Section 7-9 of the second addendum to the Carlsbad HMP and Policy 7-1.10 of the Mello II Land Use Plan of the Carlsbad LCP, as provided in Exhibit 10.
- d. A minimum buffer of 20 feet shall be provided between development as defined in Section 30106 of the Coastal Act, and native upland habitat, except as otherwise provided in Section 7-11 of the second addendum the Carlsbad HMP and Policy 3-1.12 of the Mello II Land Use Plan of the Carlsbad LCP, as provided in Exhibit 10.
- e. Location where the seeds will be collected and identification of plant species to be used for the restoration area;
- f. Application rate (e.g. pounds per acre of seeding effort);
- g. Methods of weed eradication. No weed whips shall be permitted after installation of the seed mixes;
- h. Designation of a qualified botanist to supervise the restoration effort;
- i. Goals, objectives and success criteria. The plan shall include quantitative success criteria that clearly relate to the goals and objectives of the habitat restoration program. These quantitative success criteria shall be based on sampling reference sites or on pertinent published reports. The success criteria shall include minimum requirements for species diversity and cover of shrubs, subshrubs, and herbaceous species. At minimum, five years after the initial planting the restored areas shall support at least 10 native species appropriate to characterize the vegetation type and have evidence of recruitment of at least one-half of these species. Weeds shall be controlled as specified in (g) above and never constitute more than 10 percent of the total cover.
- j. At completion of the mitigation/restoration effort, the restoration specialist shall prepare a letter report indicating that the installation is finished and that the five-year monitoring period has begun. Monitoring reports shall be submitted to the City and the Executive Director annually for five years. If at the end of five years, any of the restored areas fail to meet the success criteria as contained in the final mitigation plan, the monitoring and

maintenance period will be extended one full year for that area. Final monitoring for success shall occur after at least a three-year period during which there has been no remediation or maintenance, other than weeding. If the success criteria are not met after 6 years, an amendment to the permit shall be required.

The permittee shall undertake development in accordance with the approved mitigation/restoration plan. 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.

3. Restoration for Construction Impacts. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, if any temporary wetland and/or riparian impacts are proposed, the applicant shall submit a detailed revegetation plan indicating the type, size, extent and location of all plant materials, any proposed irrigation system and any other landscape features necessary to revegetate any proposed temporary wetland and/or riparian impacts. The restoration program shall be developed in consultation with the U.S. Department of Fish and Wildlife and the California Department of Fish and Game, and at a minimum shall include:

Before/After Survey. The condition of the wetland and/or riparian revegetation and substrate under the two approved golf cart crossing locations shall be documented prior to construction, and the extent of proposed temporary impacts shall be identified. The extent of impacts to the vegetation and substrate shall be assessed and documented after completion of the repairs. Temporary wetland and/or riparian impacts shall be revegetated at a ratio of 1:1. There shall be no wetland impacts except for those temporary impacts associated with construction of the two approved golf cart crossings. No permanent wetland or riparian impacts shall be allowed.

a. The following goals, objectives and performance standards for the restoration sites:

1. Full restoration of all wetland and/or riparian impacts that are identified as temporary. Restoration of temporarily impacted areas shall include, at a minimum, restoration of before-impact elevations, restoration of before-impact hydrology, removal of all non-native plant species, and replanting with locally collected native wetland and/or riparian plant species.
2. After construction and restoration, a permanent minimum buffer of 100 feet shall be provided between development and wetlands, and a minimum buffer of 50 feet shall be provided between development and riparian area, except as shown on the "City of Carlsbad Golf Course Revisions" plan dated February 7, 2003. For the two approved golf cart path crossings and the golf course playing areas adjacent to the riparian area as shown on the plan, an average minimum post-construction buffer of 50 feet shall be provided between new development and wetlands, and an average minimum post-construction buffer of 25 feet shall be provided between new development and riparian areas, consistent with Policy 3-1.12 of the Mello II Land Use Plan and Section 7-11 of the Carlsbad HMP, as provided in Exhibit 10, unless otherwise approved by the Executive Director in a manner consistent with the final, approved development plans and mitigation/restoration plans. The buffer between development and riparian/wetland habitat for these referenced areas shall not be less than 10 feet in width at any one point.
3. As shown on the plan entitled "City of Carlsbad Golf Course Revisions" submitted with LCPA 1-03B (Carlsbad HMP) on February 7, 2003, and

consistent with the golf course hardline map (Figure 8 Revised) in the Carlsbad HMP, golf cart path crossing #1 shall utilize the existing farm road, and crossing #2 shall utilize a bridge span structure. No permanent riparian impacts shall occur for either crossing.

4. Success criteria and final performance monitoring shall provide at least a 90% coverage of areas disturbed by construction activities within 1 year of completion of construction activities.
5. The final design and construction methods that will be used to ensure the restoration sites achieve the defined goals, objectives and performance standards.
6. Submittal, within 30 days of completion of initial restoration work, of post-restoration plans demonstrating that the restoration sites have been established in accordance with the approved design and construction methods.

Construction impacts to sensitive habitat areas (e.g., coastal sage and other native upland habitat, wetlands, and riparian areas) shall be avoided by identifying and staking all sensitive habitats outside the project footprint, and educating the construction crews about the importance of these habitats and need for protection.

The permittee shall undertake development in accordance with the approved restoration plan. 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.

4. Final Landscape Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a detailed final landscape plan for the proposed development. Said plan shall show the type, size, extent and location of all proposed vegetation and any necessary irrigation, and shall provide the following information and/or commit to the following requirements:

- a. The installation of plant materials on the site, except for golf course turf within the playing and practice areas, shall consist only of drought-tolerant native or non-invasive plant materials. Within buffers adjacent to native habitat, only native plant materials shall be installed. To the extent feasible, native grasses shall be utilized in "rough" areas.
- b. Required habitat buffers, as provided in Special Condition #2, shall be identified. The applicant shall provide a list of proposed plants to be used in the buffer areas, and shall indicate the type and location of any proposed barriers, signage or other methods that will be utilized to separate golf course activities from protected native habitat, wetlands and/or riparian area.
- c. A planting schedule that indicates the planting plan will be implemented within 60 days of completion of construction.
- d. A written commitment by the applicant that all required plantings will be maintained in good growing condition, and whenever necessary, will be replaced with new plant materials to ensure continued compliance.
- e. A written commitment by the applicant that five years from the date of opening of the golf course, the applicant will submit for the review and written approval of the Executive

Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

- f. If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

The permittee shall undertake development in accordance with the approved landscaping plans. Any proposed changes to the approved landscaping 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.

5. Erosion Control Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, an erosion and sediment control plan for the proposed development, prepared by a qualified resource specialist. The plan shall be in substantial conformance with the following requirements:

- a. The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags. No grading or staging of equipment or supplies shall occur in the protected areas.
- b. The plan shall specify that if grading occurs during the rainy season (October 1 - March 31), the applicant undertake the following protective measures to assure offsite sedimentation is minimized to the maximum extent feasible: install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers and/or silt fencing; stabilize any stockpiled fill with geofabric covers or other appropriate cover; install geotextiles or mats on all cut or fill slopes; and close and stabilize open trenches as soon as possible.

These erosion and sediment control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process. All sediment should be retained on-site unless removed to an approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.

- c. The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, and/or silt fencing; and installation of temporary drains and swales and sediment basins. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

The permittee shall undertake development in accordance with the approved erosion control 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.

6. **Drainage and Polluted Runoff Control Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, final drainage and runoff control plans including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to reduce the pollutant load of runoff to the maximum extent feasible, and reduce or eliminate any potential increases in the volume or velocity of runoff leaving the site. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- a. Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- b. BMPs shall be selected to address the pollutants of concern for this development, including sediments, nutrients, pesticides, fertilizers, metals, petroleum hydrocarbons, trash and debris, and organic matter.
- c. Runoff shall be conveyed off site in a non-erosive manner. Energy dissipating measures shall be installed at the terminus of all outflow drains.
- d. Drainage from all roofs, parking areas, driveway area, and other impervious surfaces on the building pad shall be directed through vegetative or other media filter devices effective at removing and/or treating contaminants such as petroleum hydrocarbons, heavy metals, and other particulates.
- e. Opportunities for directing runoff into pervious areas located on-site for infiltration and/or percolation of rainfall through grassy swales or vegetative filter strips, shall be maximized.
- f. The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. The plan shall include an identification of the party or entity(ies) responsible for maintaining the various drainage systems over its lifetime and shall include written acceptance by the responsible entity(ies). Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to and during each rainy season, including conducting an annual inspection no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment to this coastal development permit or a new coastal development permit is legally required to authorize such work.
- g. Parking lots susceptible to stormwater should be swept with a vacuum regenerative sweeper on a regular basis.
- h. The golf course shall be equipped with flow reducers or shutoff valves triggered by a pressure drop so that broken pipes do not increase flow to the storm drains;

- i. The applicant shall provide, for the review and approval of the Executive Director, plans for a self-contained cart washing facility that is equipped with a pre-treatment facility, and, if significant discharge is proposed, is connected to the sanitary sewer;
- j. All storm drain inlet structures must be equipped with trash racks, which shall be maintained by the applicant and/or authorized agent.
- k. Storm drains shall be stenciled with water quality warnings indicating that the drain flows to the lagoon.

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

7. Water Quality Monitoring Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, a water quality monitoring plan to address the quality of runoff prior to leaving the site or entering the onsite riparian area. The plan shall describe the methodology for monitoring, including specific threshold levels and sampling protocols, location of monitoring sites, schedule for monitoring, and reporting of results. The monitoring plan shall also include a contingency plan describing the actions to be taken if water quality impacts are discovered. In addition to specifications above, the plan shall be in substantial conformance with the following requirements:

- a. The plan shall require monitoring of the following pollutants: nitrates, nitrites, phosphates, dissolved oxygen, pH, total suspended solids (TSS), acute and chronic toxicity, and shall indicate the proposed sampling frequencies. Total suspended solids (TSS) shall be sampled for at the same frequency as the nutrients.
- b. The plan shall specify maximum threshold levels for each water quality parameter.
- c. The plan shall specify sampling protocols to be used for each water quality parameter. Measurements must be precise enough to evaluate compliance with applicable water quality threshold levels.
- d. Sampling for baseline data shall be conducted a minimum of three (3) times and during different level storms to acquire a representative sample of water quality conditions at the site.
- e. Results of monitoring shall be submitted to the Executive Director annually.
- f. If any water quality threshold levels referred to above in b) are exceeded, the applicant (or successor interest) shall notify the Executive Director of the exceedances and potential impacts and within 48 hours of receipt of the monitoring data. At the same time the applicant shall consult with the Executive Director regarding the need for additional sampling to evaluate the exceedance or corrective action to minimize water quality impacts. The applicant shall report to the Executive Director on the possible causes of the exceedance and proposed corrective actions within 30 days of the initial receipt of the data.
- g. If any water quality impacts persist after three years of detection, notwithstanding any corrective actions taken by the applicant, all use of the chemicals that exceed water quality threshold levels shall cease.

8. Turf and Pest Management Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval, a detailed turf and pest management plan for the golf course portion of the development. The plan shall comply with the following requirements:

- a. Turf management practices shall utilize state-of-the-art environmental methods to minimize fertilizer use, water use and chemical pest control to the maximum extent feasible, to avoid impacts to native upland habitat, wetlands, riparian areas, and water quality.
- b. The plan shall favor non-chemical strategies over chemical strategies for managing onsite pests. Chemical strategies shall only be employed after all other strategies have been used and proven ineffective. This shall be demonstrated by providing written notice to the Executive Director of the non-chemical strategies that will be used, the reasons for their ineffectiveness, and the chemical strategies that are being considered.

The permittee shall undertake development in accordance with the approved turf and pest management plan plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the approved plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

9. Public Golf Course Facility. The golf course, clubhouse, parking areas, driving range, conference center and pads for future industrial/golf related uses shall be operated as facilities open to the general public. Any proposed change in the level of public access and/or public use shall require an amendment to this permit. Signage shall be provided indicating that the onsite facilities as provided above are open to the public.

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), except for temporary impacts associated with construction of the two approved golf cart path crossings, consistent with Special Condition #3, and onsite habitat restoration/revegetation activities as part of an approved coastal sage scrub mitigation plan, consistent with Special Condition #2.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, 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 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.

11. Protection of the Coastal California Gnatcatcher. To prevent breeding/nesting season impacts to the coastal California gnatcatcher (*Polioptila californica californica*), the permittee shall not undertake any clearing or grading activities on the golf course site between March 1 and August 15, unless approved in writing by the U.S. Fish and Wildlife Service and the California Department of Fish and Game. Herbicide, pesticide and/or fertilizer applications shall occur outside of a 100-foot exclusion zone to avoid drift towards nesting areas. A worker education program shall be implemented to ensure that all golf course construction and maintenance workers know the location of all gnatcatcher nests and are aware of the above-described protection measures.

During the non-breeding season (August 16 through February 28), if construction activities will produce noise levels greater than 60 db, gnatcatcher-occupied habitats within the habitat preserve areas shall be shielded from the sight and sound of such activities taking place within 50 feet of the occupied habitat, using the following technique. During construction, the gnatcatcher habitat will be shielded from sight and sound by 8-foot high, solid 1-inch thick barriers. A biological monitor must be onsite daily to ensure that the construction activities are having no negative impact on gnatcatchers.

The permittee shall staff a qualified monitoring biologist on-site during all CSS clearing and any other project-related work adjacent to CSS to be avoided. The biologist must be knowledgeable of gnatcatcher biology and ecology. The permittee shall ensure that prior to and during the clearing of coastal sage scrub and/or any other suitable gnatcatcher habitats outside the gnatcatcher breeding season, the biologist shall locate any individual gnatcatchers on-site and direct clearing to begin in an area away from birds. In addition, the biologist shall walk ahead of clearing equipment to flush birds towards areas of habitat that will be avoided and/or which are located within the permanent preserve areas.

12. Open Space Restriction.

A. No development, as defined in Section 30106 of the Coastal Act, shall occur in habitat buffer areas as required in Special Conditions #2 and 4, and as identified in the final landscape plans, and as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit, except for

1. approved landscaping activities and plantings and/or restoration and revegetation of native habitat according to the final coastal sage scrub mitigation plan; and

B. PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS PERMIT, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, as generally described above and shown on Exhibit 7 attached to this staff report.

C. PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant's entire parcel or parcels. It shall also indicate that, in the event of an extinguishment

or termination of the deed restriction for any reason, the Standard and Special Conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification or amendment thereof – remains in existence on or with respect to the subject property.

13. Any future revisions to the golf course layout and/or design which may be necessary to address golf course operations or any other reason shall require an amendment to this permit. Any such revisions to the golf course shall occur within the approved developable area in the least environmentally damaging manner that is most protective of the sensitive resources within the habitat preserve. No impacts to resources within the preserve shall be permitted.

14. Technical Advisory Panel. An independent technical advisory panel of environmental and agency representatives shall be provided the opportunity to review and comment on the management plans and ongoing monitoring reports. This will allow for meaningful input by all parties interested in the water quality in the Agua Hedionda Lagoon, and will assist the Coastal Commission staff and the City in effectively assuring the environmental quality of the golf course. All review and comments will be requested to be submitted within 45 days of receipt of draft plans. The Executive Director of the California Coastal Commission shall have final authority over the determination of condition compliance, unless it is determined that the item should be referred to the Commission.

CALIFORNIA COASTAL COMMISSION

San Diego Coast Area Office
 7575 Metropolitan Drive, Suite 103
 San Diego, CA 92108-4421
 (619) 767-2370
www.coastal.ca.gov



Page: 1

Date: **December 17, 2007**Permit Application No.: **A-6-CII-00-087-A1****COASTAL DEVELOPMENT PERMIT AMENDMENT**

On **August 8, 2003**, and as amended on **November 16, 2007**, the California Coastal Commission granted to:

City of Carlsbad

this permit for the development described below

for: **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**

at: **north of Palomar Airport Road and east and west of College Boulevard, Mello II, Carlsbad, San Diego County. APN 155-104-04**

This permit has been amended to include the following changes, subject to the attached Standard and Special Conditions:

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.

This amended permit will become effective upon return of a signed copy of this form to the San Diego Coast District Office. Please note that the original permit conditions are still in effect.

Sincerely,
 PETER M. DOUGLAS
 Executive Director

By: **TONI ROSS**
 Coastal Program Analyst

ACKNOWLEDGMENT

I have read and understand the above amendment and agree to be bound by its Conditions and the remaining conditions of Permit No: **A-6-CII-00-087-A1**

Date: _____

Signature: _____

EXHIBIT NO. 6
APPLICATION NO. A-6-CII-00-087- A2
Amendment No. 1 with conditions
California Coastal Commission

AMENDMENT TO COASTAL DEVELOPMENT PERMIT

Date: December 17, 2007

Permit Application No.: A-6-CII-00-087-A1

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STANDARD CONDITIONS:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

The permit is subject to the following 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.

AMENDMENT TO COASTAL DEVELOPMENT PERMIT

Date: December 17, 2007

Permit Application No.: A-6-CII-00-087-A1

Page 3 of 3

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.

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. 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.

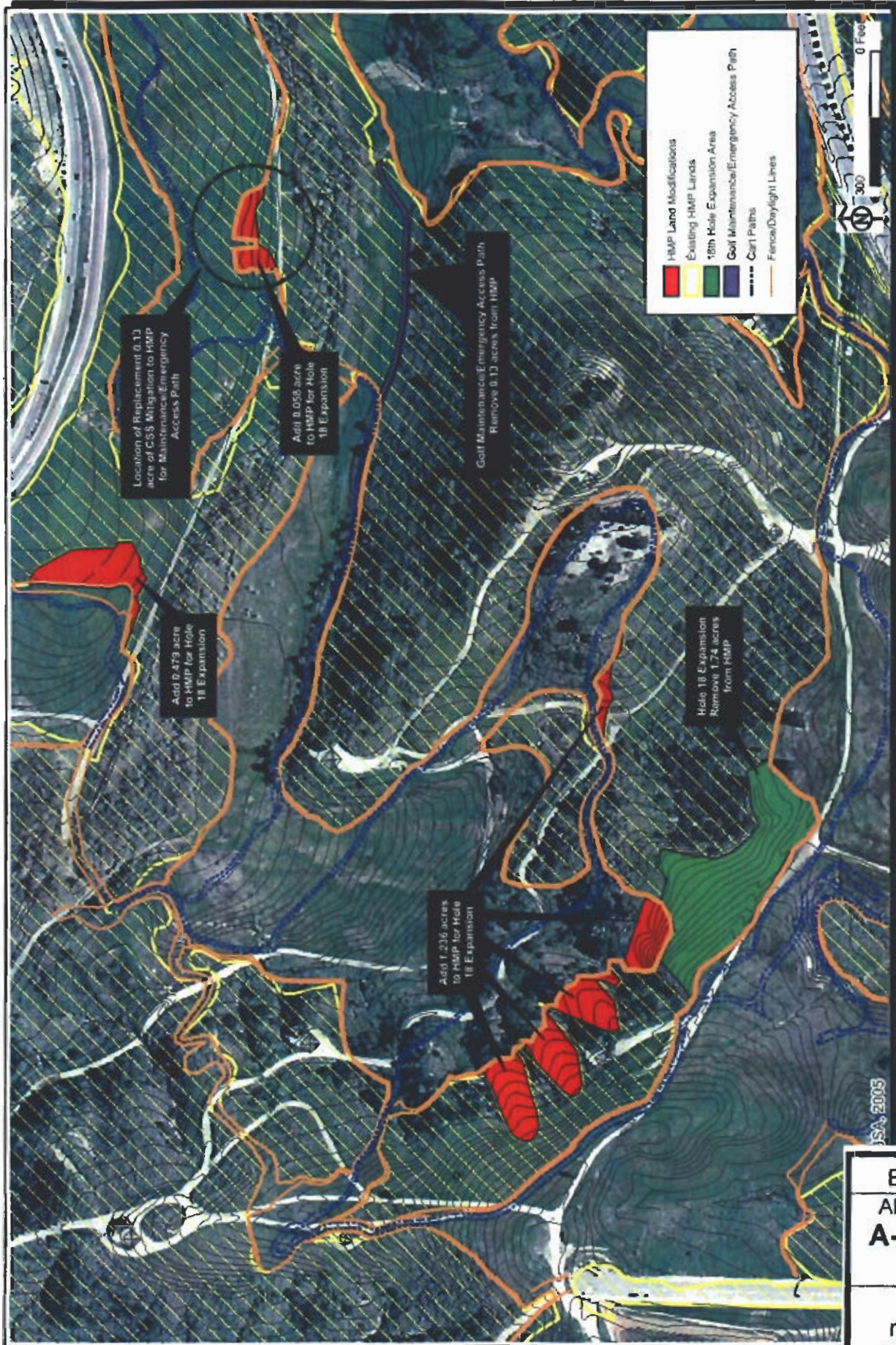


FIGURE 1

Carlsbad Golf Course HMP Modifications

<p>EXHIBIT NO. 7 APPLICATION NO. A-6-CII-00-087- A2</p>
<p>HMP land modifications of Amendment No. 1</p>