

CALIFORNIA COASTAL COMMISSION

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July 28, 2017

W17a**TO: COMMISSIONERS AND INTERESTED PERSONS****FROM: KARL SCHWING, DEPUTY DIRECTOR, SD COAST DISTRICT
GABRIEL BUHR, COASTAL PROGRAM MANAGER, SD COAST DISTRICT
ERIN PRAHLER, COASTAL PROGRAM ANALYST, SD COAST DISTRICT****SUBJECT: STAFF RECOMMENDATION ON CITY OF CARLSBAD MAJOR
AMENDMENT LCP-6-CII-17-0031-3 (POINSETTIA 61) for Commission Meeting
of AUGUST 9-11, 2017**

SYNOPSIS

The subject City of Carlsbad Local Coastal Program (LCP) land use plan and implementation plan amendment was submitted and filed as complete on April 12, 2017. The Commission granted a one-year time extension on June 7, 2017; therefore, the last date for Commission action on this item is July 11, 2018. This report addresses the entire submittal.

SUMMARY OF AMENDMENT REQUEST

The City of Carlsbad is requesting to amend the land use and zoning designations on seven parcels totaling 60.8 acres. The subject site is located near the inland boundary of the coastal zone, south of Cassia Road, between the existing western and eastern segments of Poinsettia Lane, and east of Ambrosia Lane ([Exhibit 1](#)). The subject LCP amendment is project driven, and would modify the land use designations from Residential 0-4 dwelling units per acre (du/ac) (R-4) and Open Space (OS) to Residential 4-8 du/ac (R-8) and OS ([Exhibit 2](#)). The existing zoning on the site would be modified from One Family Residential (R-1) and OS to Residential Density-Multiple (RD-M) and OS ([Exhibit 3](#)). The proposed land use and zoning modifications to adjust the boundaries between residential development and open space areas will formalize new boundaries for the City's Habitat Management Plan (HMP) Preserve on the site. The new open space designated areas will add approximately 32 acres of sensitive habitat area to the HMP Preserve.

The site is topographically diverse with gentle rolling hills throughout and a canyon in the east. Adjacent land uses include open space and multi-family residential to the north, open space to the south, open space to the east, single family residential and the western terminus of Poinsettia Lane to the southeast, and multi-family residential and Ambrosia Lane to the west. The open space areas surrounding the subject site are all part of the HMP Preserve.

The northernmost parcel, known as the Maldonado parcel (20.4 acres), has been previously disturbed by agricultural practices and grading for the future extension of Poinsettia Lane. The remaining parcels, including the Namikas (11 acres), Sudduth (9.1 acres) and Kevane (four separate parcels totaling 20.2 acres) parcels, are primarily natural habitat with the exception of a San Diego Gas and Electric (SDG&E) transmission corridor and access road and portions of some existing habitat areas that have been previously disturbed by homeless encampments and associated trash and debris piles. More recently, the entire site burned during the Poinsettia wildfire in May 2014, but the habitat is recovering. All parcels are now currently under ownership of one entity.

This LCP amendment is a project-driven amendment for the development of a 123-unit residential subdivision and completion of the final segment of Poinsettia Lane. The “project site” totals 50.8 acres comprised of five of the seven parcels involved in this LCP amendment (the Maldonado, Namikas, Sudduth, and two western Kevane parcels) ([Exhibit 4](#)). As proposed, the completion of Poinsettia Lane will include a 272-foot bridge on the eastern portion of the project site to span a canyon over an existing habitat wildlife corridor. Approximately 20 acres of the project site would be developed with residential units, located primarily within the previously disturbed agricultural area in the northern portion of the site and clustered along the Poinsettia Lane extension.

The project site contains approximately 28 acres of environmentally sensitive habitat area (ESHA), including southern maritime chaparral, coyote brush scrub, coast live oak woodland, and southern willow scrub. No wetland, vernal pool, or oak woodland habitats would be impacted. The proposed development will impact approximately 6.3 acres of southern maritime chaparral on the project site. All habitat impacts will be mitigated within the open space area of the project site, as well as at three offsite locations: an adjacent 10-acre mitigation site, Aviara Community Park, and Veteran’s Park ([Exhibit 1](#)). Mitigation types and ratios will be consistent with the requirements of the City’s LCP and certified HMP. The southern portion of the project site, comprising approximately 25 acres, would not be developed, would be designated as OS, and will be added to the HMP Preserve for conservation and management in perpetuity.

The two remaining Kevane parcels involved in this LCP amendment total 10 acres, are located adjacent to the project site, and will serve as a mitigation site for the project ([Exhibit 4](#)). This “mitigation site” also contains southern maritime chaparral, coyote brush scrub, coast live oak woodland, and the SDG&E transmission corridor and access road. The entire 10-acre mitigation site would be designated and zoned as OS and added to the HMP Preserve, precluding future development on these parcels. When added to the habitat area preserved on the project site, this will represent a contiguous area of approximately 32 acres of natural open space that will be added to the City’s HMP Preserve and will serve as a major wildlife corridor as originally envisioned in the HMP.

The proposed amendment will affect both the certified LCP land use plan and implementation plan. The site is located in the Mello II segment of the City’s certified LCP and is not within the Coastal Commission’s appeal jurisdiction area of the Coastal Zone.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval of the land use plan (LUP) and implementation (IP) amendments as submitted. The proposed amendments under review at this time consist of the changes to land use and zoning designations on the project site and an adjacent mitigation site. Additionally, these changes directly facilitate a specific development; therefore, the development envelope established by the project, including potential impacts to sensitive resources, shall be reviewed as well, but a coastal development permit will also be required.

The project site and the adjacent mitigation site contain significant sensitive biological resources and both sites are identified in the Habitat Management Plan (HMP) as “standards areas.” As proposed, the development envelope will result in 6.3 acres of impact to ESHA. The HMP prescribes multiple sets of standards for this site, including the goals and objectives of the HMP, general conservation standards, standards for the coastal zone, and parcel-specific requirements. The parcel-level development standards identify the amount of development allowed on a parcel, and describe the types of impacts to ESHA that could be associated with any proposed development. Although the proposed development envelope has been adjusted, the proposed development footprint represents a biologically superior alternative to the design originally anticipated and allowed by the standards for the site, and thereby better supports the overarching goals of the HMP. All impacts to ESHA will be mitigated consistent with the requirements of the City’s LCP, including the HMP. The proposed residential development is clustered on existing disturbed portions of the site and results in a large and contiguous habitat linkage through the site; the proposed Poinsettia Lane connection is designed to preserve habitat and wildlife corridors, and sensitive habitat areas on the remainder of the site will be conserved and maintained as part of the City’s HMP Preserve. The proposed amendment will add approximately 32 acres of land into the HMP Preserve that is connected to other large habitat areas already set aside for preservation. The proposed OS land use and zoning designations will be combined with a conservation easement, funding, and management program to ensure conservation of sensitive habitat on the subject property in perpetuity. The proposed land use plan changes are consistent with the HMP, which the Commission certified in 2003 as consistent with the Chapter 3 policies of the Coastal Act. The zoning redesignations are consistent with the Mello II and HMP components of the certified LUP. The U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife concur that the proposed project is consistent with the HMP ([Exhibit 5](#)).

The City’s LCP identifies Poinsettia Lane as a major arterial road providing direct coastal access (via Carlsbad Boulevard) from inland areas of the City. The proposed land use and zoning revisions would facilitate the completion of Poinsettia Lane with pedestrian and bicycle improvements, and the City has further conditioned the permit for the underlying project. The conditions require trail improvements within an existing utility easement through the portion of the property to be designated as open space. Therefore, the proposed land use and zoning changes will not result in any adverse impact to public access. Although the northern portion of the subject site was at one time used for

agriculture, it has not been actively farmed for several years, and the site currently has a residential land use and zoning designation already approved as a part of the Commission's original review and certification of this LCP segment in 1997. Thus, the proposed land use and zoning changes do not raise concerns regarding the conversion of agricultural lands for development, as they are not currently designated for agricultural uses.

Staff recommends that the Commission find that the City's request to amend the certified LCP land use plan meets the requirements of, and conforms with, the Chapter 3 policies of the Coastal Act as submitted. Additionally, staff recommends that the City's request to amend the certified LCP implementation plan can be found to be consistent with the certified Mello II LUP and HMP, as amended herein.

Staff is therefore recommending that the amendment be approved as submitted by the City. The appropriate resolutions and motions begin on Page 5.

HMP PROCEDURAL BACKGROUND

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

In 1993, the coastal California gnatcatcher was listed as threatened under the federal Endangered Species Act (ESA), 16 U.S.C. § 1531 *et seq.* The coastal California gnatcatcher is found primarily in coastal sage scrub habitat in southern California. Based upon scientific estimates, coastal sage scrub habitat in San Diego County has been reduced by more than 70% of its original coverage. Fewer than 900 gnatcatcher pairs likely remain in the county; however, San Diego County currently supports the largest gnatcatcher population in California and presents the most significant opportunity for large-scale preservation of the species. This listing has had a significant effect on future public and private development in areas containing gnatcatcher habitat. In order to proceed, development in areas with gnatcatchers would have to completely avoid a "take" of this species or else receive federal authorization for such an impact. Several other species have been listed under the federal or state ESA since 1993; currently, approximately 25 species that are listed or proposed for listing occur in or are associated with habitat located in Carlsbad.

The Carlsbad HMP and the MHCP are intended to meet criteria for the CDFW's Natural Communities Conservation Planning process (NCCP), which was initiated in southern California in 1991, and of the federal ESA. In 1992, the City signed an NCCP agreement with the California Resources Agency to develop the Habitat Management Plan (HMP) as part of the City's General Plan. The 1992 agreement enrolled the City in the NCCP program as an "Ongoing Multi-Species Plan" as defined in the NCCP process guidelines. The agreement was supplemented in 1993 to clarify that the HMP is a subarea plan of the San Diego County MHCP.

The draft Carlsbad HMP was initially approved by the Carlsbad City Council on September 21, 1999. An addendum was then prepared based on comments provided by the USFWS and the CDFW, and the revised document, dated December 1999, was submitted to the wildlife agencies for approval of an incidental take permit (ITP) under section 9(a)(1)(B) [16 USC § 1538(a)(1)(B)] of the Endangered Species Act. Since incidental take permits are not listed in the CCMP as one of the permits for activities likely to affect coastal uses and resources, the Commission requested, and received, permission from the Office of Ocean and Coastal Resource Management (OCRM) in August 2000 for a federal consistency review of the HMP. The purpose of the consistency review was to determine whether issuance of the ITP would be consistent with the California Coastal Act and the CCMP.

In 2003, the City proposed an amendment to the LCP to incorporate the HMP into the certified LCP and make the corresponding changes to the applicable land use plan segments (Mello I, Mello II, and Agua Hedionda). In its action on City of Carlsbad LCP Amendment No. 1-03B in July 2003, the Commission certified the HMP as part of the LCP and found it to meet the requirements of Sections 30240 and 30250 of the Coastal Act, despite potential impacts to environmentally sensitive habitat area (ESHA). The Commission found that, pursuant to Sections 30007.5 and 30200(b), certification of the HMP with suggested modifications was, on balance, the alternative that was most protective of significant coastal resources. Since certification of the HMP, the Commission has approved several LCP amendments similar to that proposed, which modify the residential and open space boundaries and designate the new HMP preserve area as open space. These include, but are not necessarily limited to, Carlsbad LCP Amendment Nos. 1-04B (Kirgis); 1-05A (Yamamoto); 1-05C (North Coast Calvary Chapel); 2-01A (Lynn); 2-04B (Black Rail); 2-06B (La Costa Village); 1-07C (La Costa Glen); 2-07A (Aura Circle); 2-07B (Kelly JRMC); 4-09D (Tabata Ranch); 4-09E (Tabata 10); 1-10A (Muroya); and LCP-6-CII-14-0837-2 (Daybreak Community Church).

ADDITIONAL INFORMATION

Further information on the City of Carlsbad LCP Amendment No. LCP-6-CII-17-0031-3 may be obtained from Erin Prahler, Coastal Planner, at (619) 767-2370.

EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Proposed LCP Land Use Map Changes](#)

[Exhibit 3 – Proposed LCP Zoning Map Changes](#)

[Exhibit 4 – Project Site and Mitigation Site Parcels](#)

[Exhibit 5 – Letter from U.S. Fish and Wildlife Service and California Department of Fish and Wildlife to the City of Carlsbad Regarding HMP Consistency Findings for the Poinsettia 61 Project, dated February 24, 2017](#)

[Exhibit 6 – Letter from City of Carlsbad to the U.S. Fish and Wildlife Service and California Department of Fish and Wildlife Requesting Consistency Determination for Poinsettia 61 Project, dated January 12, 2017](#)

[Exhibit 7 – Proposed Project Footprint vs. Alternative Footprint](#)

[Exhibit 8 – City Council Resolution No. 2017-043](#)

[Exhibit 9 – City Council Ordinance No. CS-316](#)

APPENDICES

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

[Appendix B – Substantive File Documents](#)

PART I. OVERVIEW

A. LCP HISTORY

The City of Carlsbad's certified LCP contains six geographic segments as follows: Agua Hedionda, Mello I, Mello II, West Batiquitos Lagoon/Sammis Properties, East Batiquitos Lagoon/Hunt Properties, and Village Area. Pursuant to Sections 30170(f) and 30171 of the Public Resources Code, the Coastal Commission prepared and approved two portions of the LCP, the Mello I and II segments in 1980 and 1981, respectively. The West Batiquitos Lagoon/Sammis Properties segment was certified in 1985. The East Batiquitos Lagoon/Hunt Properties segment was certified in 1988. The Village Redevelopment Area LCP was certified in 1988; the City has been issuing coastal development permits there since that time. On October 21, 1997, the City assumed permit jurisdiction and has been issuing coastal development permits for all segments except Agua Hedionda. The Agua Hedionda Lagoon LCP segment is a deferred certification area until an implementation plan for that segment is certified. This amendment modifies the City's Mello II land use plan and implementation plan.

B. STANDARD OF REVIEW

The standard of review for land use plans, or their amendments, is found in Section 30512 of the Coastal Act. This section requires the Commission to certify an LUP or LUP amendment if it finds that it meets the requirements of Chapter 3 of the Coastal Act. Specifically, it states:

Section 30512

(c) The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200). Except as provided in paragraph (1) of subdivision (a), a decision to certify shall require a majority vote of the appointed membership of the Commission.

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

In those cases when a local government approves implementing ordinances in association with a land use plan amendment and both are submitted to the Commission for certification as part of one LCP amendment, pursuant to Section 13542(c) of the Commission's regulations, the standard of review of the implementing actions shall be the land use plan most recently certified by the Commission. Thus, if the land use plan is conditionally certified subject to local government acceptance of the suggested modifications, the standard of review shall be the conditionally certified land use plan.

C. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires local governments to provide the public with maximum opportunities to participate in the development of the LCP amendment prior to its submittal to the Commission for review. The City has held Planning Commission and City Council meetings with regard to the subject amendment request. The City also held a public meeting on January 19, 2017 to present the project for public input. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

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

- I. MOTION:** *I move that the Commission certify Land Use Plan Amendment No. LCP-6-CII-17-0031-3 for the City of Carlsbad certified LCP as submitted.*

STAFF RECOMMENDATION TO CERTIFY:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the land use plan amendment as submitted and adoption of the following resolution and findings. The motion to certify as submitted passes only upon an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO CERTIFY LAND USE PLAN AMENDMENT AS SUBMITTED:

The Commission hereby certifies the Land Use Plan Amendment No. LCP-6-CII-17-0031-3 for the City of Carlsbad certified LCP as submitted and adopts the findings set forth below on grounds that the Land Use Plan Amendment will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan 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 plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Land Use Plan Amendment.

- II. MOTION:** *I move that the Commission reject Implementation Program Amendment No. LCP-6-CII-17-0031-3 for the City of Carlsbad certified LCP as submitted.*

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby certifies the Implementation Program Amendment No. LCP-6-CII-17-0031-3 for the City of Carlsbad certified LCP as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act, and certification of the Implementation Program Amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program Amendment.

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

The proposed amendment would change the City's LUP by modifying the certified LCP Land Use Map to redesignate the two northernmost parcels from R-4 (Residential 0-4 du/ac) and R-4 and OS (Open Space) to R-8 (Residential 4-8 du/ac) and OS to concentrate the development footprint on the northern portion of the site. The five remaining parcels will be redesignated from R-4 and OS to OS to reflect the conservation of habitat area on the southern portion of the project site ([Exhibit 2](#)).

B. LEGISLATIVE GOALS OF THE COASTAL ACT

Pursuant to Section 30512.2(b) of the Coastal Act, the Commission may find a land use plan is in conformance with the policies and requirements of Chapter 3 of the Coastal Act only to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act. Section 30001.5 states:

The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:

a) Protect, maintain and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and manmade resources.

b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.

c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners.

d) Assure priority for coastal-dependent and coastal-related development over other development on the coast.

e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

For the specific reasons detailed below, the Commission finds that the land use plan amendment submitted as LCP -6-CII-17-0031-3 conforms with Chapter 3 of the Coastal Act to the extent necessary to achieve the goals of the state for the coastal zone.

C. CONFORMITY OF THE CITY OF CARLSBAD MELLO II LAND USE PLAN AMENDMENT WITH CHAPTER 3

Relevant Coastal Act policies include the following:

Section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30240 states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30242 states:

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such

conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

Section 30250 states, in relevant part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources...

The City's certified Habitat Management Plan (HMP), a collaboration of federal and state wildlife agencies in addition to the City, is important for implementing the Coastal Act policies regarding biological resources. Given the mandate of Section 30240 to protect environmentally sensitive habitat areas, the City developed its HMP to establish the critical preserve and development envelopes in remaining undeveloped areas. The HMP specifies the City's reconciliation of Section 30240 as it applies to environmentally sensitive habitat areas in the City and the Commission concurred and certified the HMP in July 2003. The HMP includes the following goals, objectives, and policies, which are applicable to the proposed amendment:

Goals and Objectives

The overall goal of the HMP is to contribute to regional biodiversity and the viability of rare, unique or sensitive biological resources throughout the City of Carlsbad and the larger region while allowing public and private development to occur consistent with the Carlsbad General Plan and Growth Management Plan.

The specific biological objectives of the Plan are to:

- *Conserve the full range of vegetation types remaining in the City, with a focus on rare and sensitive habitats;*
- *Conserve areas of habitat capable of supporting the HMP Species in perpetuity; and*
- *Maintain functional wildlife corridors and habitat linkages within the City and to the region, including linkages that connect gnatcatcher populations and movement corridors for large mammals.*

The specific conservation objectives of the Plan are to:

- *Maintain functional biological cores;*
- *Maintain functional linkages and movement corridors;*
- *Conserve rare vegetation communities;*
- *Conserve narrow endemic species and maintain populations of target species; and*

- *Apply a “no net loss” policy to the conservation of wetlands, riparian and oak woodland habitats.*

The specific land use objectives of the Plan are to:

- *Protect important wildlife habitats while allowing for orderly growth and development;*
- *Provide a menu of land use measures to protect and conserve habitat according to the Plan including standards relating to mitigation, open space dedications and density transfers;*
- *Provide a framework for coordinating and monitoring the protection and management of biological resources in natural open space...*

Zone 21 Policies

HMP Conservation Goals

Conserve the majority of remaining natural habitats and ensure a net loss of no more than 10% of coastal sage scrub and southern maritime chaparral. Ensure no net loss of wetland habitats, vernal pools, and oak woodlands within the zone. Conserve habitats in a contiguous configuration across the zone to allow for continued east-west connectivity and animal movement between El Camino Real (Zone 10) and Linkage Area F (Zones 19 and 20). Conserve Narrow Endemic plant populations.

Planning Standards

Additional field surveys at the appropriate time of year are needed in this zone to determine the extent and location of sensitive species. Major areas for development should be restricted to agricultural areas and disturbed habitat. Avoid removing maritime succulent scrub, southern maritime chaparral, and any Narrow Endemic plant populations identified during planning. Minimize removal of coastal sage scrub and southern maritime chaparral; avoid impacts within the watersheds of vernal pools and to oak riparian forest. Ensure continuous habitat connectivity and wildlife movement east-west across the zone with an average habitat width of 500 feet to 1,000 feet and a minimum constriction of 500 feet (where narrower constrictions don't already exist). However, in no case shall this standard deny a property owner some reasonable use of their property. If impacts to natural habitats cannot be avoided, they must be limited to disturbed, low quality portions of the site. Areas of highly disturbed, low quality southern maritime chaparral and coastal sage scrub may be mitigated by a combination of onsite enhancement and offsite mitigation in locations of higher quality habitat. Mitigation for any allowed impacts shall be as stated in Table 11 on Page D-113.

Coastal Zone Conservation Standards

Policy 7-1 Environmentally Sensitive Habitat Areas (ESHA)

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 upon those resources shall be allowed within those areas.

Policy 7-8 No Net Loss of Habitat

There shall be no net loss of Coastal Sage Scrub, Maritime Succulent Scrub, Southern Maritime Chaparral, Southern Mixed 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 and concurrence of the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife (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 7-1 of this subsection, 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 7-9 Upland Habitat Mitigation Requirements

Where impacts to the habitats stated in 7-1 are allowed, mitigation shall be provided as follows:

- a. The no net loss standard shall be satisfied as stated in 7-8. Typically this will consist of creation of the habitat type being impacted (or substantial restoration where allowed) at a ratio of at least 1:1 as provided in the HMP.*
- b. Onsite preservation is not eligible for mitigation credit in the coastal zone. Onsite or off-site open space preserve areas may be utilized to satisfy required mitigation for habitat impacts associated with development if the preserve areas are disturbed and suitable for restoration or enhancement, or they are devoid of habitat value and therefore suitable for the 1:1 mitigation component requiring creation or substantial restoration of new habitat. Substantial restoration is restoration that has the effect of qualitatively changing habitat type and may meet the creation requirement if it restores habitat type that was historically present, but has suffered habitat conversion or such extreme degradation that most of the present dominant species are not*

part of the original vegetation. Substantial restoration contrasts with enhancement activities, which include weeding, or planting within vegetation that retains its historical character, and restoration of disturbed areas to increase the value of existing habitat which may meet other mitigation requirements pursuant to the HMP.

- c. Impacts to Coastal Sage Scrub shall be mitigated at an overall ratio of 2:1, with the creation component satisfying half of the total obligation. The remainder of the mitigation obligation shall be satisfied pursuant to the provisions of the HMP.*
- d. Impacts to Southern Maritime Chaparral or Maritime Succulent Scrub shall be mitigated at an overall ratio of 3:1, with the creation component satisfying one-third of the total obligation. The remainder of the mitigation obligation shall be satisfied pursuant to the provisions of the HMP.*
- e. [...]*
- f. Mitigation for impacts within the coastal zone should be provided within the coastal zone if possible, particularly the 1:1 creation component, in order to have no net loss of habitat within the coastal zone. Mitigation measures on land outside the Coastal Zone may be acceptable if such mitigation would clearly result in higher levels of habitat protection and value and/or would provide significantly greater mitigation ratios, and the mitigation area is part of the HMP. Land area inside and outside the coastal zone which serves as mitigation for habitat impacts in the coastal zone shall be permanently retired from development potential and secured as part of the HMP preserve management plan as a condition of development approval.*
- g. Habitat mitigation requirements other than the creation or substantial restoration component may be partially or wholly fulfilled by acquisition of existing like habitat and/or retirement of development credits on existing like habitat with permanent preservation as part of the HMP preserve management plan.*
- h. All mitigation areas, onsite and offsite, shall be secured with a conservation easement in favor of the wildlife agencies. In addition, a preserve management plan shall be incorporated into the mitigation areas, to the satisfaction of the City, the wildlife agencies, and the Coastal Commission...The preserve management plan shall ensure adequate funding to protect the preserve as open space and to maintain the biological values of the mitigation areas in perpetuity. Management provisions and funding for mitigation required to address habitat impacts shall be in place prior to the impacts for which the mitigation is required. At a minimum, monitoring reports shall be required as a condition of development approval after the first and third year of habitat mitigation efforts.*

Policy 7-11 Buffers and Fuel Modification Zones

Buffers shall be provided between all preserved habitat areas and development. Minimum buffer widths shall be provided as follows:

- a. 100 ft. for wetlands*
- b. 50 ft. for riparian areas*
- c. 20 ft. for all other native habitats (coastal sage scrub, southern maritime chaparral, maritime succulent scrub, southern mixed chaparral, native grassland, oak woodland).*

[...]

Any proposed reductions in buffer widths for a specific site shall require sufficient information to determine that a buffer of lesser width will protect the identified resources. Such information shall include, but is not limited to, the size and type of the development and/or proposed mitigation (such as planting of vegetation or the construction of fencing) that will also achieve the purposes of the buffer. The California Department of Fish and Game, the U.S. Fish and Wildlife Service, and the Coastal Commission staff shall be consulted in such buffer determinations.

No development, grading, or alterations, including clearing of vegetation, shall occur in the buffer area, except for:

- a. Fuel modification Zone 3 to a maximum of 20 ft. for upland and non-riparian habitat. No fuel modification shall take place within 50 ft. of riparian areas, wetlands, or oak woodland.*
- b. Recreation trails and public pathways within the first 15 feet of the buffer closest to the development, provided that conservation of the trail or pathway and its proposed use is consistent with the preservation goals for the adjacent habitat, and that appropriate measures are taken for physical separation from sensitive areas.*

Buffer areas that do not contain native habitat shall be landscaped using native plants. Signage and physical barriers such as walls or fences shall be required to minimize edge effects of development.

Policy 7-14 Other Parcels – Specific Habitat Protection Standards

The following standards apply to those parcels in Zones 20 and 21 shown on Exhibit A (page 121) which are located within the biological core and linkage areas designated in the MHCP. They are in addition to the applicable, general conservation standards contained in 7-1 through 7-11 of the HMP. The standards are intended to direct development to existing disturbed areas to the maximum extent feasible, limit impacts to native vegetation, and establish viable core and linkage areas as designated in the HMP. In general, each property shall be

allowed to develop at least 25% of the site with appropriate mitigation as specified in 7-8 through 7-11. When individual properties are proposed for rezoning or development, detailed biological information will be required to determine whether the proposal is consistent with the HMP, subsection 7 and the standards below, based upon the actual type, location and condition of onsite resources, and the appropriate locations of development and preservation areas. One or more wildlife crossings under the Poinsettia Lane of sufficient size for larger species shall be provided if recommended by the wildlife resource agencies.

[...]

- g. Assessor's Parcel No. 215-020-07 (Maldonado) – Development shall be concentrated along the Poinsettia Lane extension and shall be limited to the western half of the property. No impacts to the coast oak woodland and riparian area except for Poinsettia Lane extension. The eastern half of the property is recommended for offsite mitigation for other properties in Zone 21; however, at a minimum, a wildlife corridor linkage oriented generally north-south shall be provided on the eastern half of the property and designed to connect to neighboring properties with existing or potential wildlife corridor linkages. The corridor linkage shall include any onsite coast oak woodland area.*
- h. Assessor's Parcel No. 215-050-21 (Namikas) – Development shall be limited to a maximum of 25% of the property, not including Poinsettia Lane construction, and shall be clustered on the western portion of the property. No impacts to coast oak woodland, riparian areas or wetlands except for Poinsettia Lane extension. A wildlife corridor linkage oriented generally north-south shall be provided on the eastern portion of the property, including the onsite coast oak woodland area, and be designed to connect to neighboring properties with existing or potential wildlife corridor linkages. Impacts to native habitat shall require onsite mitigation through restoration and/or creation of habitat within the designated corridor linkage, in addition to any other required mitigation.*
- i. Assessor's Parcel No. 215-050-22 (Sudduth) – Development shall be limited to a maximum of 25% of the property, not including Poinsettia Lane construction, and shall be clustered on the western portion of the property. No impacts to coast oak woodland, riparian areas or wetlands except for Poinsettia Lane extension. A wildlife corridor linkage oriented generally north-south shall be provided on the eastern portion of the property, including the onsite coast oak woodland area, and be designed to connect to neighboring properties with existing or potential wildlife corridor linkages. Impacts to native habitat shall require onsite mitigation through restoration and/or creation of habitat within the designated corridor linkage, in addition to any other required mitigation.*

- j. *Assessor's Parcel No. 215-050-44, 45, 46, 47 (Kevane) – Development shall be limited to a maximum of 25% of the property and shall be clustered on the western portion of the property. No impacts to coast oak woodland, riparian areas or wetlands shall be allowed. A wildlife corridor linkage oriented generally north-south shall be provided on the eastern portion of the property, including the onsite coast oak woodland area, and be designed to connect to neighboring properties with existing or potential wildlife corridor linkages. Impacts to native habitat shall require onsite mitigation through restoration and/or creation of habitat within the designated corridor linkage, in addition to any other required mitigation.*

[...]

The parcel specific standards listed above are adopted because hardline preserve boundary lines were not established at the time of preparation of the HMP. The purpose of the standards is to ensure that future development is sited to preserve the maximum amount of ESHA within the coastal zone, and to establish a viable habitat corridor and preserve area in Zones 20 and 21. If the City, with the concurrence of the wildlife agencies and the Coastal Commission through an LCP amendment, subsequently approves a Hardline preserve boundary for any of the above-described properties as part of the HMP, then the onsite preservation included in the Hardline preserve boundary shall apply.

Components of Preserve System

The adopted HMP proposes to protect the endangered California gnatcatcher and other listed species by contributing to an interlinked regional preserve system. The proposed preserve area for the HMP will be created from land in three different categories: hardline properties, standards areas, and existing preserve.

1. Hardlines

Certain properties have been designated in the HMP with specific development and conservation footprints, and are known as “hardline” properties. If development is proposed on these sites in a manner that is substantially in conformance with the “hardline” configuration in the HMP, the development will be authorized consistent with all other regulatory standards and procedures. The purpose of this process is to ensure that certain areas of onsite habitat will be set aside for permanent preservation, and that the property owners have committed to abide by the established development limitation upon approval of the HMP.

2. Standards Areas

The second category of proposed preserve area in the HMP contains the “standards” areas, for which the HMP contains guidance relative to future habitat preservation and the siting of new development. The standards areas involve specific undeveloped properties within the City that are located in the biological core and linkage areas identified in the County MHCP.

3. Existing Preserve Areas

The third category contains existing preserve lands (preserved prior to certification of the HMP), such as the City's three coastal lagoons and associated wetlands, the Dawson Los Monos Reserve, the Carlsbad Highlands Mitigation Bank, and other preserves located within previously-approved development. Approximately 4,450 acres of existing preserve land were incorporated into the HMP. These areas, which include both private and public land, have already been conserved for their wildlife value through previous development actions, such as mitigation banks and required open space. However, because these lands were preserved prior to the development of the HMP, many of these lands will not be monitored or managed to the extent of the post-HMP preserve areas. It is the City's intention to seek outside funding for management, monitoring and enforcement of the privately owned lands in the existing preserve areas.

The amendment before the Commission includes changes to the land use and zoning designations for the site. Consideration here does not address the underlying project permit for residential development and completion of Poinsettia Lane. As previously described, the subject amendment will modify the boundaries of residential and open space designations to establish a development footprint. The area proposed for the open space designation includes the majority of the sensitive habitat areas (ESHA) surveyed on site. The open space area will be added to the City's HMP Preserve with active management and maintenance to ensure conservation in perpetuity.

Environmentally Sensitive Habitat Areas

The primary Coastal Act issue raised by the proposed land use designation changes is the potential for adverse impacts to ESHA. The project site is comprised of 10 different vegetation communities including: coyote brush scrub (2.12 acres), coast live oak woodland (1.51), southern maritime chaparral (23.98 acres), southern willow scrub (0.27 acres), agricultural lands (15.71 acres), disturbed habitat (5.91 acres), eucalyptus woodland (0.15 acres), poison oak scrub (0.22 acres), ornamental land (0.59 acres), and ruderal (0.34 acres). The northernmost parcel of the project site is approximately 20 acres and has been previously disturbed by agricultural practices and grading for the planned extension of Poinsettia Lane. The proposed land use designation changes would modify the residential and open space boundaries to concentrate development on the previously disturbed portion of the site, and protect the remaining habitat onsite by incorporating it into the City's HMP Preserve.¹ The proposed changes to the land use designations, and the associated development that it would allow, would result in impacts to 6.3 acres of southern maritime chaparral. The southern maritime chaparral is mitigated at a 3:1 ratio, as required. No wetland, vernal pool, oak woodland, southern willow scrub, or coastal sage scrub habitats would be impacted. The proposed project also complies with

¹ The acreage of OS designated area is slightly higher than the acreage to be added to the HMP Preserve because the existing 3.18 acre SDG&E easement that runs through the area to be designated OS cannot be added to the Preserve (because it will be continually accessed and disturbed). As a result, the total acreage to be added to the HMP Preserve will be approximately 32 acres, while the total acreage to be designated as OS by this LCP amendment is approximately 35 acres.

requirements for narrow endemic species; in this case, the permanent impacts to Del Mar manzanita are below the maximum impact threshold of 25%.

During review of the Carlsbad HMP in June 2003, the Commission reconciled the conflict between the policies of the Coastal Act that protect ESHA and those that require concentration of development where it will not have significant adverse effects on coastal resources. The Commission found, through conflict resolution, that approval was most protective of significant coastal resources because the HMP would allow for concentration of development in the areas of the City most suitable for development and creation of a habitat preserve that addresses the long-term viability and conservation of sensitive species while allowing some impacts to ESHA to occur. Although implementation of the HMP will result in some loss of native habitat and listed species throughout the region, in association with loss due to incidental take outside the preserve area, it was determined the potential losses to the habitat caused by piecemeal, uncoordinated development would be considerably higher without the HMP. Through application of the HMP mitigation requirements, there should be no net loss of ESHA within the coastal zone. Thus, the Commission certified the HMP as consistent with Sections 30240 and 30250 of the Coastal Act through conflict resolution. The findings addressing resolution of the policy conflicts between these Coastal Act sections in the Commission's action on LCP Amendment No. 1-03B are herein incorporated by reference and attached to this report as [Appendix A](#).

Development envelopes and proposed development that are consistent with the provisions of the certified HMP are therefore also consistent with Chapter 3 of the Coastal Act.

Additional Requirements within the Coastal Zone

The following mitigation ratios will be required for authorized habitat impacts on properties within the coastal zone:

- 2:1 for coastal sage scrub
- 3:1 for all other rare native vegetation except wetlands
- 3:1 for riparian areas
- 4:1 for vernal pools, other seasonal wetlands, and salt marsh

Buffers for coastal habitat would be established as follows:

- A minimum 100 foot buffer shall be required from all freshwater and saltwater wetlands areas.
- A minimum 50 foot buffer shall be required from riparian areas and coast oak woodlands. No development or brush management shall take place within the buffer area for these habitat types except as otherwise specified herein.
- If a riparian area is associated with steep slopes (>25%), the 50 foot buffer shall be measured from the top of the slope.
- For steep slopes not associated with a riparian area, and for nonsteep areas (<25% slope) with native vegetation, a minimum 20 foot buffer shall be required. For steep slopes, the buffer shall be measured from the top of the slope. No

development may be located within the buffer except as otherwise specified herein. However, if brush management is required for fire protection, Zone 3 (to a maximum of 20 feet) may be located within the buffer area if allowed by the fire management authority.

- Recreation trails and public access pathways may be permitted in the required buffer area within the 15 feet closest to the adjacent developable area, provided that the construction of the trails and/or pathways and their proposed uses are consistent with the preservation goals for adjacent habitat, and that appropriate measures are taken for their physical separation from sensitive areas.

As approved by the Commission, the HMP further provides that, in the coastal zone, there will be no net loss of coastal sage scrub, maritime succulent scrub, southern maritime chaparral, southern mixed chaparral, native grassland or oak woodland. For impacts that are allowed to coastal zone sites with these habitat types, mitigation shall include a creation component, which requires establishment of new habitat area at a ratio of at least 1:1 (one acre of creation for every one acre of habitat impact) in order to achieve the no net loss standard. In certain appropriate cases, substantial restoration may also be substituted for creation. Restoration and enhancement will also be acceptable for mitigation beyond the 1:1 creation requirement. Onsite or offsite open space preserve areas may be utilized to satisfy required mitigation for habitat impacts, if the preserve areas are disturbed and suitable for restoration or enhancement, or they are devoid of habitat value and therefore suitable for the 1:1 mitigation component requiring creation or substantial restoration of habitat. Habitat mitigation requirements other than the creation or substantial restoration component may be partially or wholly fulfilled by acquisition of existing like habitat and/or retirement of development credits on existing like habitat with permanent preservation as part of the HMP preserve management plan.

The subject site is located within “Zone 21,” is identified as a standards area, and is located adjacent to existing Hardline Preserve areas to the northeast, southeast, and west. The HMP conservation goals for Zone 21 require conservation of the majority of remaining natural habitats, including no net loss of wetlands habitats, vernal pools, and oak woodlands within the zone. Finally, habitats must be conserved in a continuous configuration across the zone to allow for continued east-west connectivity.

At the time of approval of the HMP, the City and the Coastal Commission recognized these specific parcels as one of the many sites highly constrained for development due the presence of ESHA on a significant portion of the parcels. At the time, there was no development plan proposed, so the site was approved as a “standards” area rather than a “hardline” property. A “standards” area includes specific guidelines for the separation of development and habitat areas, while a “hardline” was an approved specific area available for development on a site. Any property within the HMP that had a specific project associated with the site at the time of HMP approval was thoroughly reviewed. A hardline was developed to separate the sensitive habitat from the developable areas to the maximum extent possible. Because these parcels did not have a detailed project proposal associated with them at the time of HMP approval, the HMP provided guidelines, or standards, by which development should proceed on this site. It was acknowledged that

these guidelines may need to be revised depending on the specifics of the project or the value of the habitat after thorough biological review.

The parcels that are the subject of this LCP amendment are subject to both zone and parcel-specific planning standards. The City of Carlsbad HMP contains goals and policies that focus on the establishment and preservation of a habitat preserve consisting of large contiguous habitat linkages and future management and conservation of these areas. More specifically, the applicable Zone 21 planning standards state that development should be restricted to agricultural areas and disturbed habitat; avoid and minimize impacts to southern maritime chaparral; and ensure continuous habitat connectivity and wildlife movement east-west across the zone with an average habitat width of 500 feet to 1,000 feet and a minimum constriction of 500 feet (except where narrower constrictions already exist).

The HMP also requires these seven standards area parcels to comply with parcel-level development standards to ensure that future development is sited to preserve the maximum amount of ESHA within the coastal zone and to establish a viable habitat corridor and preserve area in this section of the City (HMP Policy 7-14(g)-(j)). The relevant standards detail a percentage of development allowed on each parcel, and describe the location on each parcel where this development should be sited. The remaining acreage of each parcel is required to be conserved as part of the HMP Preserve. The standards for all of these parcels call for provision of a wildlife corridor linkage generally oriented north-south on the eastern portion of each property that is designed to connect to neighboring properties with existing or potential wildlife corridor linkages. The corridor linkage must include any onsite coast oak woodland area. On the Maldonado property, development (including Poinsettia Lane construction) is to be limited to the western half of the property. The eastern half is recommended as offsite mitigation for other properties in Zone 21. Development (not including Poinsettia Lane construction) on the Namikas, Sudduth, and Kevane parcels is limited to 25% of the property and shall be clustered on the western portion of the property.

As previously described, unlike the Maldonado parcel, the Namikas, Sudduth and Kevane parcels are primarily native habitat. At the time of HMP approval, by including the standards policies, the Commission and the City accepted that some impacts to ESHA would occur due to both the completion of Poinsettia Lane and the development of up to 25% of each of those parcels. The 25% developable area on the Namikas, Sudduth, and two western onsite Kevane parcels totals 7.6 acres. Therefore, a development proposal could impact up to 7.6 acres of ESHA on those parcels for residential development alone and be consistent with the standards. Impacts to ESHA on the site associated with completion of Poinsettia Lane would be allowed over and above the maximum 7.6 acres of impacts from residential development on those parcels. In this case, the proposed land use redesignations will result in a development footprint that would impact only 6.3 acres of ESHA from both the completion of Poinsettia Lane and residential development.

Although the proposed development envelope would result in less impact to ESHA than allowed under the standards, the land use designations proposed in this amendment request are not wholly consistent with the anticipated pattern of development that was

identified in HMP Policy 7-14(g) and (h) on the Maldonado and Namikas parcels. As shown in Table 1, the proposed project will concentrate residential development on the Maldonado and Namikas parcels. The residential development proposed on the Maldonado parcel, however, is not restricted to the “western half” of the parcel. The proposed development footprint on both parcels also exceeds the total development potential identified in the HMP by 5.1 acres.

Nevertheless, in their consistency letter ([Exhibit 5](#)), the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) concurred the proposed project is consistent with the HMP.

The proposed project would consolidate development on the Namikas parcel and result in 4.[8] acres less development on the other parcels. Although the proposed development would not be strictly limited to 25% on the Namikas parcel, the intention of the HMP and CCC development restrictions and guidelines is maintained and the overall function of the preserved habitat in the region is enhanced by the proposed clustered development layout. In particular, the requirement for a 500-foot east-west corridor through the zone can only be achieved through the proposed development clustering. The strict interpretation of the standards would place development along the entire western boundary of the project, eliminating an east-west habitat linkage.

The City also notes in its request for a consistency determination ([Exhibit 6](#)) that the proposed bridge, necessary to complete Poinsettia Lane and avoid habitat, “enhances the habitat connectivity of the surrounding open space compared with a culvert” and a strict HMP-compliant alternative would require a culvert and in turn create further, unnecessary impacts to the chaparral. The City cited an alternatives analysis prepared by Dudek, which concluded the proposed project creates substantial benefits to habitat conservation compared to an east-west division.

Thus, after several years reviewing the project site, habitat mapping, and project alternatives, Commission staff and staff at the USFWS and CDFW concur that the proposed development envelope is more protective of existing sensitive habitat than strict compliance with the development areas anticipated for the Namikas and Maldonado parcels would allow (i.e., the proposed project is biologically superior to what was originally required under the HMP for these parcels). The LUP amendment can therefore be found consistent with the requirements of the HMP and, thus, with the Chapter 3 policies of the Coastal Act.

The parcel-specific standards for the Namikas parcel limit development to 25% of the property (excluding development associated with Poinsettia Lane). The proposed project exceeds the planned development footprint on this parcel by 1 acre. The excess acre of development proposed on the Namikas parcel can be found consistent with the HMP because the applicant is transferring the 4.8 acres of development potential allowed on the Sudduth and onsite Kevane parcels into a single, concentrated development footprint.

This transfer of development potential ensures preservation of the sensitive habitat located on the Sudduth and onsite Kevane parcels in its entirety.

Table 1. Comparison of Proposed Residential Development and Development Restrictions in HMP Standards Policies

Parcel	Total Acreage	Poinsettia Lane	Percent Allowable Development	Allowable Residential Development (acres)	Proposed Residential Development (acres)	Difference Between Proposed and Allowed (acres)
215-020-07 (Maldonado)	20.4	2.8	50% including Poinsettia Lane	7.4	16.3	8.9 (proposed in excess of allowed)
215-050-21 (Namikas)	11.0	2.5	25% not including Poinsettia Lane	2.8	3.8	1.0 (proposed in excess of allowed)
215-050-22 (Sudduth)	9.3	0.4	25% not including Poinsettia Lane	2.3	0.0	-2.3 (proposed less than allowed)
215-050-44 and 215-050-47 (Kevane)	10.1	0.0	25%	2.5	0.0	-2.5 (proposed less than allowed)
TOTAL	50.8	5.7	--	15.0	20.1	5.1 (proposed in excess of allowed)

The parcel-specific standards for the Maldonado parcel require that development (including development of Poinsettia Lane) be clustered on the “western half” of the property. The proposed project exceeds the planned development footprint by 8.9 acres, although there is no ESHA on the Maldonado site, so no ESHA would be adversely impacted by this additional development. Moreover, this additional development allows for less development on the Sudduth and onsite Kevane parcels, which do contain ESHA. Furthermore, this clustering of development on disturbed portions of the Maldonado property rather than using the eastern half of the parcel as a mitigation site for impacts caused by development on other adjacent parcels (as considered in HMP Policy 7-14(g)) is an environmentally superior approach because it avoids impacts to existing high quality habitat and allows for the preservation of these areas as a part of the HMP preserve.

By transferring the 4.8 acres of development potential from the Sudduth and onsite Kevane parcels to the Maldonado and Namikas parcels, the proposed project would exceed the total development potential allowed by the standards by 5.1 acres. Although

the development envelope is slightly larger than was contemplated by the standards at the time of HMP approval, it is not resulting in additional impacts to ESHA because the development will be primarily located on the previously disturbed Maldonado parcel. Because those 5.1 acres of the project site were intended to be added to the HMP Preserve, Commission staff and staff of the USFWS and CDFW required the applicant to replace 5.1 acres of southern maritime chaparral into the HMP Preserve elsewhere in the coastal zone in order to make the Preserve whole. The applicant has found sufficient acreage of southern maritime chaparral within the coastal zone to replace this excess development acreage (see Table 2 and discussion of mitigation below).

The proposed development envelope is also consistent with the Zone 21 Policies of the HMP. Because the Maldonado parcel is mostly comprised of previously disturbed agricultural land, clustering development on this parcel and the Namikas parcel is consistent with the Zone 21 Planning Standard calling for development on agricultural areas. Zone 21 Planning Standards also require that development “ensure continuous habitat connectivity and wildlife movement east-west across the zone with an average habitat width of 500 feet to 1,000 feet and a minimum constriction of 500 feet (where narrower constrictions don’t already exist). A minimum 500-foot wide east-west corridor is proposed within the project open space, south of Poinsettia Lane. The Poinsettia Lane bridge span is sufficient in length to allow for movement of all wildlife species that occur in the area. The 272-foot constriction north of Poinsettia Lane is allowable because it preserves the natural topography of the canyon and is sufficient to connect habitats through this region.

The applicant analyzed project alternatives, including a project design in strict compliance with the parcel-level standards identified in HMP Policy 7-14(g)-(j). This alternative included completion of Poinsettia Lane using an oversized culvert to provide a wildlife crossing under the roadway, instead of the currently proposed span bridge across the canyon, as was analyzed in a 1991 study of the Poinsettia Lane completion. Such an alternative would require significantly more grading for installation of the culvert. Further, this alternative would require residential development to extend down the entire western boundary of all the parcels to fulfill the standards’ requirement that development “be clustered on the western portion of the property,” creating a solid wall of development along the western boundary of the project site ([Exhibit 7](#)). Strict adherence to the HMP standards under this scenario would result in impacts to 9.1 acres of sensitive habitat (coyote brush scrub, southern maritime chaparral, and southern willow scrub), compared to the 6.3 acres of impact to southern maritime chaparral from the proposed project. In addition, because the residential development would extend along the entire western boundary of the project site under that alternative, the development would front more preserved open space, increasing the potential for adverse edge effects on sensitive habitat over the proposed project footprint. Finally, development along the entire western boundary of the project site would be inconsistent with Zone 21 Planning Standards requiring a 500-foot east-west corridor through the project site because it would eliminate habitat linkage to the west.

In summary, the proposed development envelope provides a biologically superior alternative to the development envelope that was identified in HMP Policy 7-14(g)-(j)

because development will be primarily concentrated on the previously disturbed portion of the project site instead of creating a solid wall of development along the entire western boundary of the project site. This consolidated development footprint also minimizes potential adverse edge effects between development areas and sensitive habitat. Finally, the proposed development envelope ensures habitat connectivity and wildlife movement east-west across Zone 21, while also providing a wildlife corridor linkage oriented north-south on the eastern half of most of the parcels and through the canyon across the Maldonado parcel connecting to Preserve areas to the northeast.

Mitigation

The proposed project footprint will impact 6.3 acres of southern maritime chaparral, 14.7 acres of agricultural land, and 4.6 acres of disturbed lands. The HMP requires payment of a mitigation fee for impacts to disturbed and agricultural lands and the project applicant is required through the City's coastal development permit to fulfill this obligation. HMP Policy 7-9(d) requires mitigation of impacts to southern maritime chaparral at an overall 3:1 ratio. One-third of that ratio must be fulfilled by creating or substantially restoring southern maritime chaparral within the coastal zone, to ensure the no net loss of habitat requirement described in HMP Policy 7-8 is met. The remaining 2:1 mitigation ratio can be fulfilled by acquisition of existing like habitat and/or retirement of development potential on existing like habitat with permanent preservation as part of the HMP preserve management plan (HMP Policy 7-9(g)), restoration or enhancement of disturbed areas within on- or offsite open space preserve areas, or creation or substantial restoration of new habitat within on- or offsite open space preserve areas that are devoid of habitat value (HMP Policy 7-9(b)).

The applicant proposes to fulfill its mitigation requirements both on- and offsite. The offsite mitigation will occur within the adjacent 10-acre mitigation site (Kevane parcels 215-050-45 and 215-050-46), at the City's Veteran's Park and the Aviara Community Park ([Exhibit 1](#)). The following Table 2 summarizes the mitigation requirements for impacts to southern maritime chaparral, the 5.1 acres of excess development that must be replaced to make the HMP Preserve whole, and the applicant's proposal to fulfill those requirements.

Within the open space area of the project site, a total of 3.1 acres is available for creation or substantial restoration of southern maritime chaparral habitat and will count toward the applicant's no net loss of southern maritime chaparral requirement. This creation and substantial restoration will convert existing disturbed habitat, agricultural land, ornamental areas, eucalyptus woodland, and ruderal land to native habitat, and restore existing and previously disturbed habitat areas that were damaged from homeless encampments and trash and debris piles.

The two offsite Kevane parcels will serve as an adjacent mitigation site. HMP Policy 7-14(j) limits development to 25% of the Kevane parcels and requires that the remaining 75% be added to the HMP Preserve. Under this standard, a total of 2.5 acres development potential exists on these offsite Kevane parcels. The applicant will retire the 2.5 acres of development potential, adding the entire 10.1 acres to the HMP Preserve. In addition to retiring this development potential, 2.2 acres of southern maritime chaparral creation and substantial restoration are available on this site. The entire mitigation site will be

incorporated into the onsite restoration program and managed with the adjacent project site's open space area.

Table 2. Potential Mitigation Areas and Credits

Mitigation Site	SMC Creation / Substantial Restoration (6.3 ac required) (acres)	SMC Restoration or Preservation (12.6 ac required) (acres)	HMP Preserve Expansion (5.1 ac required) (acres)
Onsite Maldonado (215-020-07), Namikas (215-050-21), Sudduth (215-050-22), Kevane (215-050-44 and 215-050-47)	3.1 (1.7 ac creation + 1.4 ac subst. restoration)	-	-
Offsite Kevane (215-050-45 and 215-050-46)	2.2 (0.6 ac creation + 1.6 ac subst. restoration)	-	2.5
Aviara Community Park	2.0 (creation and/or subst. restoration)	3.5 (SMC preservation)	5.5
Veteran's Park	-	3.1 (CSS restoration and/or preservation)	3.1
Total	7.3 acres	6.6 acres	11.1 acres
Total Compared to Requirement	+1.0 acre	-6.0 acres	+6.0 acres
TOTAL	6.0 acres of SMC Preservation deficit is offset by 1.0 acres of excess Creation/Substantial Restoration and 6.0 acres of excess HMP Preserve credit (net of +1.0 acre)		

Aviara Community Park is located less than one mile northwest of the project site and currently supports north-facing slopes and hillsides with southern maritime chaparral that is not within the HMP Preserve. The slopes within the park are immediately adjacent to existing HMP Preserve area, and expansion of the Preserve to include this habitat will result in conservation of a larger contiguous area of southern maritime chaparral. This 5.5 acre area has been identified to be added to the HMP Preserve (making up for the 5.1 acres of excess development proposed as part of the residential project). This area consists of 2.0 acres of highly disturbed southern maritime chaparral (less than 20% native cover) suitable for creation or substantial restoration and 3.5 acres of existing southern maritime chaparral that is either undisturbed or has limited areas of disturbance (greater than 80% native cover) suitable for preservation credit.

The final mitigation site identified by the applicant is Veteran's Park, located to the northwest of the project site and adjacent to existing HMP Preserve area. A total of 3.1 acres of land at Veteran's Park shall be added to the HMP Preserve for credit toward making the HMP whole. The exact location of this acreage has not yet been identified because the City is evaluating the site for park development. The site mostly supports coastal sage scrub and annually maintained nonnative grassland. Some or all of the 3.1 acres within the final mitigation area are assumed to be disturbed and would be restored with coastal sage scrub, which Commission staff is willing to accept toward mitigation of southern maritime chaparral impacts because of the scarcity of both types of habitat in the coastal zone. Therefore, up to 3.1 acres of restoration or preservation credit is also available at this site.

Wetlands

The City's Environmental Impact Report (EIR) identifies three areas of southern willow scrub habitat as wetlands due to the presence of at least one of the three wetland criterion the Coastal Commission uses to identify wetlands. This habitat type is located within the canyon that traverses the project site below the proposed development envelope and within the proposed open space area. Coastal Commission staff conducted a site visit on the property on December 8, 2016 and observed evidence of two wetland parameters (wetland hydrology and hydric soils) located within the canyon area further south of the mapped southern willow scrub. In comments on the City's Draft EIR, Commission staff requested a full delineation of the canyon to ensure that all wetlands on the property are accurately mapped. Commission staff also requested that the areas mapped as southern willow scrub be checked for presence of other wetland parameters.

The Final EIR includes a response to Commission staff's comments. The City's response states that the wetlands delineation conducted for the entire project site occurred prior to the May 2014 Poinsettia Fire. Based on conditions observed on the December 2016 site visit, the mapping was revised in the Final EIR to show the predominance of creeping rye grass within the lowest portions of the canyon, downstream of the mapped southern willow scrub, in an area that had previously been mapped as coyote brush scrub based on pre-fire conditions. The FEIR identifies this area of creeping rye grass as potential CCC wetlands. Because the predominance of creeping rye grass may be a temporary post-fire condition or may represent a new condition, the City acknowledges that further evaluation of the canyon is necessary and will occur as part of the open space management. Commission staff will review the Preserve Management Plan and Restoration Plan to ensure that detailed mapping of any potential wetland areas are conducted and that management of the open space area onsite is consistent with the presence of any identified wetlands. Although the Poinsettia Lane span bridge would extend over a small portion of the mapped southern willow scrub, no loss of this vegetation type would occur due to the proposed project. Because no loss of this vegetation type would occur and because additional habitat mapping will occur to support the final Preserve Management Plan and Restoration Plan, the Final EIR adequately responds to the questions Commission staff raised regarding mapping of wetlands on the project site.

During review of the project at the local level, the City applied a 50 foot buffer around the areas mapped as southern willow scrub. Because the EIR identifies these areas as wetlands, Commission staff further requested clarification regarding the application of a 50 foot, instead of a 100 foot, buffer, as is typically applied to wetland areas. The City's response in the Final EIR notes that the certified HMP identifies southern willow scrub as a riparian habitat type and HMP Policy 7-11(b) calls for a 50 foot buffer for riparian areas. As proposed, residential use areas would be separated by an additional 50 feet (100 feet total) from this vegetation type, with allowed land uses within this second separation/transition zone limited to drainage facilities and fuel management areas. Because the HMP identifies southern willow scrub as a riparian habitat type and because the residential use areas will be located an additional 50 feet from riparian habitat, the Final EIR adequately responds to Commission staff's question regarding appropriate buffer widths applied to the southern willow scrub habitat.

Habitat Buffers

The proposed development envelope is consistent with the buffer requirements of the certified HMP, however, in a few locations, development is proposed within required habitat buffers described in HMP Policy 7-11. As previously described, the City applied a 50 foot riparian buffer around areas mapped as southern willow scrub. Bridge footings and two storm drain outfalls would be located within the 50 foot riparian buffer. In addition, at the southeastern boundary of the project site, a plantable wall would be located within the 20 foot upland buffer separating the residential use areas from southern maritime chaparral habitat to the east. HMP Policy 7-11 allows reductions in minimum buffer widths if a buffer of lesser width will protect the identified resources. The policy further requires consultation with the CDFW, USFWS, and Coastal Commission regarding buffer determinations. Commission staff and staff at the CDFW and USFWS reviewed the proposed development located within these habitat buffers and concur that the development will not have an adverse impact on the sensitive habitat nearby.

Although some bridge improvements fall within the riparian buffer and the Coastal Commission typically does not allow development within buffers, in this case, the certified HMP exempts impacts to ESHA for completion of Poinsettia Lane altogether. The Poinsettia Lane bridge design proposal again is superior to alternative design options. As previously described, a culvert alternative would result in much greater impacts to habitat and the canyon. Redesigning the bridge to relocate the footings closer to the abutments and outside of the riparian buffer would require the bridge deck to be constructed with additional reinforcements which creates a thicker bridge deck. A thicker bridge deck would, in turn, reduce the bridge height and would result in a reduction in the amount of light penetration under the bridge. This design alternative has greater potential to adversely impact riparian habitat compared to any benefit gained from moving the bridge footings out of the 50 foot riparian buffer. As proposed, the bridge footings will be located a minimum of 30 feet from the edge of riparian habitat, which should ensure that drainage patterns in the area of the southern willow scrub are not altered and should be sufficient to protect the functions and services of the southern willow scrub habitat.

In addition, the two storm drain pipes and outfall structures are designed to discharge to an appropriate topographic low point which occurs within the 50 foot riparian buffer.

Relocating the storm drain facilities outside of the 50 foot buffer would require additional stream flow attenuation and bank stabilization which would have greater potential impacts to riparian habitat compared with the proposed design. Finally, at the southeastern edge of the developable area, a plantable wall would occur within the required 20 foot upland buffer between southern maritime chaparral to the east of the project site and the residential use areas. In this location, using a planted wall avoids significant grading and additional impacts to ESHA. Protective measures incorporated into the design include substantial grade separation between the development and open space, fencing, walls and native plantings. The reduced buffer and additional protective measures will provide multiple biological functions (including groundwater recharge, native habitat, erosion control) and protect from adverse edge effects associated with human intrusion, spread of invasive species, and intrusion by domestic animals. For these reasons, a reduced upland buffer is adequate in this area. All other development is consistent with the buffer requirements and all required fuel modification will occur within the development envelope consistent with HMP Policy 7-11.

Conclusion

Because the proposed amendment would result in impacts to ESHA (6.3 acres of southern maritime chaparral), the project applicant will be required to provide mitigation consistent with the mitigation requirements of the Mello II LUP and HMP. The project applicant will mitigate impacts to southern maritime chaparral at a 3:1 ratio. This will include 6.3 acres of habitat creation or substantial restoration to ensure no net loss of this sensitive habitat and 12.6 acres of restoration or preservation both on- and offsite. By consolidating development on the northern, previously disturbed portion of the site and conserving ESHA (through redesignating the southern portion of the site to OS and adding this acreage to the existing HMP Preserve), the proposed LCP amendment will be in conformance with the policies of the HMP and, therefore, with the Chapter 3 policies of the Coastal Act.

Agricultural Uses

Prior to the May 2014 wildfire on the site, the northern portion of the project site supported a flower nursery, consisting of greenhouse structures, sheds and row crop fields. The flower nursery is no longer in operation. Although this property was historically used for agricultural practices, it is non-prime agricultural land and was designated for residential use when the Mello II LUP was certified in 1997. The proposed project will be subject to HMP policies requiring mitigation for the conversion of agricultural lands in the coastal zone. Given that the certified LCP has already designated this area for a residential, not agricultural, use, the proposed amendment serves to change the allowed use of the property from one kind of residential use to another; as such, it does not raise consistency concerns with Section 30242 of the Coastal Act.

Public Access

The proposed land use modification will facilitate additional coastal access from inland areas through completion of Poinsettia Lane. The City's LCP identifies Poinsettia Lane as a major arterial east-west connection to the coast and this site is the last remaining

segment to be constructed. According to the City's traffic impact analysis, the completion of Poinsettia Lane and full buildout of the proposed residential development will not result in significant impacts to transportation and circulation. The coastal development permit approved by the City for the underlying project includes completion of Poinsettia Lane with bicycle and pedestrian improvements that will connect to existing sidewalk and bike lanes on either side of the gap. Once completed, Poinsettia Lane will offer continuous and direct vehicle, pedestrian, and bicycle access to the coast. Improvements for bus service are also included in the road design. In addition, the City has conditioned the underlying project to require a trail easement within an existing utility easement for public access through the southern portion of the site, consistent with the City's draft Trails Master Plan. Therefore, the proposed land use designation change is consistent with the public access policies of the Coastal Act.

Residential Density

Finally, although the land use designation change will allow an increase in residential density, the development will be clustered along the new Poinsettia Lane extension and close to existing residential development to the west of the project site in an area with adequate public services. Therefore, the redesignation can be found to be consistent with Section 30250 of the Coastal Act.

Conclusion

In conclusion, while the subject LUP amendment would result in 6.3 acres of impacts to ESHA (southern maritime chaparral), the Commission and the City anticipated and accepted even greater impacts to ESHA on these parcels during certification of the City's HMP as a component of its LCP. The proposed development envelope is consistent with the habitat and species protection goals and policies of the certified HMP and, therefore, with Section 30240 of the Coastal Act. Additionally, appropriate mitigation will be provided onsite and at several offsite locations within the Coastal Zone. All other concerns regarding potential inconsistencies with the Coastal Act have been identified and eliminated. As such, the proposed LUP amendment can be found consistent with the Coastal Act, and can therefore be approved as submitted.

PART IV. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The proposed amendment would change the City's IP by modifying the certified LCP Zoning Map to rezone the two northernmost parcels from R-1 (One Family Residential) and R-1 and OS to RD-M (Residential Density-Multiple) and OS to concentrate development potential on the northern portion of the site. The five remaining parcels will be redesignated from R-1 and OS to OS to reflect the conservation of habitat area on the southern portion of the project site ([Exhibit 3](#)).

B. FINDINGS FOR APPROVAL

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP, as amended herein. As such, the site is subject to the requirements of the City's Mello II land use policies and the policies contained in the HMP.

a) Purpose and Intent of the Ordinance. The purpose and intent of the zoning amendment is to allow a change from R-1 and R-1 and OS to RD-M and OS on the Maldonado and Namikas parcels (the two northernmost parcels) of the project site, consistent with the proposed land use designations. The five remaining parcels would be rezoned from R-1 and OS to OS to ensure consistency of the zoning with the proposed land use designations. The area zoned for OS will also be added to the City's HMP Preserve and protected from future development in perpetuity.

b) Major Provisions of the Ordinance. Ordinance No. CS-316 provides for rezoning of the parcels from R-1 and OS to RD-M and OS on the certified LCP Zoning Map.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The City of Carlsbad has applicable policies within the Mello II segment of its certified LUP that state:

Policy 1-1 Allowable Land Uses

Allowable uses are those that are consistent with both the General Plan and the Local Coastal Program.

Policy 1-2 Maximum Density of Development

Residential densities shall be permitted and based on the underlying LCP land use designation. The residential land use designations shall represent the maximum density permitted subject to application of requested density bonuses pursuant to Chapter 21.86 of the Carlsbad Municipal Code and the applicable resource protection policies of the certified LCP.

Policy 3-1 Carlsbad Habitat Management Plan

Certain areas of 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 habitats to urban or agricultural uses. Also, well-established and well-maintained vegetation is a major deterrent to soil erosion and attendant difficulties.

The Carlsbad Habitat Management Plan (HMP) is a comprehensive, citywide program to identify how the city, in cooperation with federal and state agencies,

can preserve the diversity of habitat and protect sensitive biological resources within the city and the Coastal zone...

Policy 5-5 Poinsettia Lane

Poinsettia Lane should be completed as a major arterial as indicated on the Local Coastal Program map by 1995. It should also provide direct coastal access to Carlsbad Boulevard. No assessment of agricultural lands shall be made to support this road extension.

Relevant policies in the certified HMP described above in Part III are incorporated by reference here.

Environmentally Sensitive Habitat Areas

As discussed in Part III regarding the land use plan amendment, the primary issue raised by the proposed implementation plan amendment is the potential for adverse impacts to ESHA. The proposed rezonings are consistent with the proposed land use designations and will define a development envelope that clusters development on existing disturbed portions of the site. Impacts to ESHA have been minimized and will be mitigated consistent with the requirements of the HMP. As previously discussed regarding the proposed land use plan amendment, the proposed development envelope is consistent with the resource protection goals and policies of the HMP. Therefore, the proposed implementation plan amendment is also consistent with the relevant policies of the HMP and with Policy 3-1 of the Mello II LUP.

At the time the HMP was certified as part of the City's LUP (June 2003), it was understood that the City would move forward with the implementation component of the HMP program. To date, no such implementation plan has been certified by the Commission. The City's implementation plan for the HMP was submitted as LCP Amendment No. 3-08, but was ultimately withdrawn. In the fourteen years between the LUP plan certification and the present, there have been a number of similarly project-driven LCP amendments within the City's HMP lands. Through the review and approval of these previous amendments, a number of concerns have been identified by both the City and the Commission associated with the implementation of the City's HMP. The two primary concerns involve the extent of unrestricted uses within the City's current open space zone classification and lack of language requiring HMP text and map updates to reflect the changes to development or open space preserve lands associated with these project driven land use and zoning changes.

One of the major goals of the HMP Implementation Plan was the establishment of an open space zone and conservation mechanism that will ensure protection of coastal resources in perpetuity. It was anticipated that this mechanism would include a conservation oriented open space zone or overlay that would restrict uses within the habitat preserve to resource dependent uses which are more restrictive and protective of coastal resources than the current open space zone certified in the LCP. Currently, the

open space designation allows for numerous uses including orchards, vineyards, bicycle paths, baseball fields, etc. that could lead to impacts to sensitive resources.

No such open space zone or overlay currently exists in the IP. However, the Commission finds that even in the absence of such a zone, in this case, the habitat preserve will be protected as open space through use of the open space land use plan designation and the recordation of a conservation easement prohibiting private encroachment or development in dedicated open space, while still allowing for habitat restoration and enhancement. This conservation easement is a condition of approval imposed by the City. The developer must also complete a preserve management plan and provide adequate funding to protect the preserve as open space and to maintain the biological values of the mitigation areas in perpetuity, consistent with HMP Policy 7-9(h). The Commission made similar determinations when approving previous land use and zoning modifications associated with development subject to the requirements of the HMP; these include, but are not necessarily limited to, Carlsbad LCP Amendment Nos. 1-04B (Kiris); 1-05A (Yamamoto); 1-05C (North Coast Calvary Chapel); 2-01A (Lynn); 2-04B (Black Rail); 2-06B (La Costa Village); 1-07C (La Costa Glen); 2-07A (Aura Circle); 2-07B (Kelly JRMC); 4-09D (Tabata Ranch); 4-09E (Tabata 10); 1-10A (Muroya); and LCP-6-CII-14-0837-2 (Daybreak Community Church). Therefore, the Commission finds the proposed open space zoning would adequately implement the HMP in the interim, given LCP requirements to further protect such areas with restrictions such as conservation easements, and is consistent with and adequate to carry out the certified LUP.

Without updates to the HMP text and maps, the general public, resource agencies, etc. may not be aware of approved changes to the land use designation and zoning on this property. The City does have a process to document the changes in the City's Annual Habitat Management Plan Report; however, these changes are not included on the HMP maps available at the City, or on the City's website. The proposed changes will also be reflected in the City's updated land use and zoning maps with the updated Open Space designations and associated boundary changes.

As standards areas have been converted to proposed hardline, the HMP text has not been amended to eliminate the standards policies applicable to those parcels. As such, applicants with future development inquiries or seeking habitat mitigation opportunities might look to previously certified maps or outdated standards policies that do not show the updated line of development associated with this proposed LCP amendment. To make the information more easily available, interested parties should not have to research all previous annual reports to determine if the hardline for a specific project site has been determined or modified. Furthermore, on occasion, the Commission's action on the LCP amendment further modifies the boundaries for conservation certified by the HMP/LCP maps (as was the case for LCPA 1-06B (HMP GPA)) and without updates to the map, interested parties may become misinformed. With Commission funding (a 2015 LCP grant award), the City is currently working on a comprehensive update to its LCP which will include the IP component of the HMP to resolve these outstanding issues with implementation of the HMP.

Residential Density

The intent of the RD-M zone is to implement the R-8 (Residential 4-8 du/ac) land use designation and to provide regulations and standards for the development of residential dwellings and other permitted uses in that zone. The proposed residential project will have a density of 6.1 du/ac, consistent with the R-8 land use designation and with Policies 1-1 and 1-2 of the Mello II LUP. The proposed zoning change will also facilitate completion of Poinsettia Lane, as envisioned by Policy 5-5 of the Mello II LUP.

Agricultural Uses

As noted above, the Maldonado parcel was historically used for agricultural purposes; however, because the parcel is already designated for residential use, the proposed amendment serves to change the allowed use of the property from one kind of residential to another. The City's HMP contains policies that address the protection of agricultural lands, and indicates that there is, while limited, some habitat value in agricultural lands. Specifically, while agricultural lands are not as valuable as naturally vegetated lands, they do provide wildlife corridors, food/foraging opportunities, predator protection, etc., simply through their less developed state, and the conversion of these undeveloped lands requires some mitigation. In this case, the City has conditioned the project to require the appropriate mitigation for the conversion of undeveloped, historic agricultural lands to other uses.

Conclusion

In conclusion, the City's LUP contains a number of policies guiding development of lands that contain sensitive habitat. In this case, the proposed project is in compliance with all HMP and LCP standards with the exception that residential development is not restricted to the "western half" of the Maldonado parcel. This single exception has been discussed with the CDFW and USFWS and a number of alternatives have been developed and analyzed at their request. The results of this analysis indicate that, as summarized above, the proposed project meets all of the objectives of the HMP and LCP and that a further reduction in the amount of residential development would not provide meaningful biological benefits and would not be economically feasible. While the land use and zoning modifications will result in impacts to 6.3 acres of sensitive habitat, the line of development has been designed to cluster development primarily on the disturbed areas and unavoidable impacts will be mitigated consistent with the requirements of the HMP and Mello II LUP. The proposed zoning modifications are consistent with the new land use designations, and the completion of Poinsettia Lane is consistent with Policy 5-5 of the Mello II LUP. The proposed implementation plan amendment can, therefore, be found consistent with, and adequate to carry out, the provisions of the City's certified LUP, as amended and certified herein, and shall be approved as submitted.

PART V. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The City prepared and certified EIR No. 15-03 on March 14, 2017 for the Poinsettia 61 project. The EIR concluded that, with mitigation, all environmental impacts associated with the proposed Poinsettia 61 project (and by association this proposed LCP amendment) would be reduced to less than significant levels. The City faces a legal challenge to the final EIR.

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP submission.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. The City's amendment request consists of a Land Use Plan amendment and an Implementation Plan amendment. The Land Use Plan amendment as originally submitted is consistent with and adequate to carry out the Chapter 3 policies of the Coastal Act. As submitted, the Commission finds that approval of the Land Use Plan amendment will not result in significant adverse environmental impacts under the meaning of CEQA.

Further, the Commission finds that approval of the Implementation Plan amendment as submitted would not result in significant adverse impacts under the meaning of CEQA. Therefore, the Commission finds that approval of the LCP amendment conforms to the applicable requirements of CEQA as there are no feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impact which the activity may have on the environment.

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

A. Conflict Resolution/ESHA and Concentration of Development

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

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

Section 30240 states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas and shall be compatible with the continuance of those habitat and recreation areas.

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

- (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources....

The Commission finds that the draft HMP would allow impacts to individual areas of ESHA for uses that are not dependent on the ESHA, which is inconsistent with Sections 30240 of the Coastal Act. However, the Commission finds that the coastal resources of the LCP area will be, on balance, best protected by concentrating allowable development

adjacent to existing urban services and other developed areas. Additionally, greater benefit will be obtained from preserving large contiguous areas of the most environmentally sensitive vegetation and wildlife areas rather than preserving all fragmented pieces of habitat in place.

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

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

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

In resolving the identified Coastal Act conflicts, the Commission finds that the concentration of development adjacent to existing urban development and infrastructure, and away from sensitive natural resources is, on balance, more protective of the land resources than to require that isolated areas of habitat be retained in an area adjacent to residential development. Therefore, the Commission finds that approval of the draft

HMP, if modified as suggested, is on balance the most protective option for the relevant coastal resources, for the following reasons.

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

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

Within the coastal zone, the second HMP addendum and LCP amendment proposes no net loss of most native vegetation types, with mitigation ratios ranging from 1:1 to 4:1 to ensure that, on balance, there will be no negative impacts to the total quantity and/or quality of ESHA within the coastal zone. Interim preserve management requirements, as included in the HMP, will cover the first three years following approval of the HMP, during which time a plan for permanent management will be developed by the City in cooperation with existing reserve managers, private owners, and the wildlife agencies.

The Commission must consider impacts of residential buildout as a means to analyze the effect of the proposed LCP amendment and make revisions, as necessary, to establish the standard of review consistent with the Coastal Act. In order to protect corridors of viable, connected habitat area which take into account the mobility and foraging requirements of listed and covered species, the Commission finds that it is appropriate to take a regional approach to the preservation of ESHAs. Instead of preserving all ESHAs in place where they are found, which could result in excessive fragmentation, reduced habitat values and difficulties in monitoring and management, it may be more protective of ESHA resources to focus on regional conservation approaches that concentrate development away from the habitat of greatest overall value. Such an approach could ensure the health and viability of larger, connected sensitive vegetative communities that support listed and covered species within the City's jurisdiction.

The regional nature of the habitat preservation effort sets the MHCP and HMP apart from other local jurisdiction plans affecting ESHA, where the noncomprehensive nature of the

plans and lack of regional resource protection standards require more stringent limitations to coastal ESHA impacts for individual sites. The clustering and concentration of development away from sensitive areas that will result from the proposed standards will provide a larger, more contiguous preserve area than if development on the same properties were to be approved on a lot-by-lot basis. The HMP also proposes to provide a higher standard of protection for coastal ESHA than currently provided by the certified LCP, which addresses only native habitat on steep slopes greater than 25% (dual-criteria slopes).

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

Although implementation of the HMP and MHCP will result in some loss of native habitat and listed species throughout the region, in association with loss due to incidental take outside the preserve area, the potential losses to the habitat would be considerably higher without the HMP and MHCP, particularly outside the coastal zone where fewer development restrictions on native habitat would apply. Within the coastal zone, the existing LCP does not protect native habitat on slopes less than 25% grade and therefore the proposed LCP revisions represent a significant improvement over current requirements. Through application of proposed mitigation requirements, there will be no net loss of ESHA within the coastal zone and the regional function of the MHCP preserve will continue to be protected.

This finding that approval of the HMP is the most protective option for coastal resources is based on the assumption that the habitat mitigation will be implemented as proposed, and properly maintained in perpetuity. Should the mitigation not be managed and maintained as designed, or if the required mitigation sites are not provided as proposed, the long-term benefits of the HMP for coastal resources would not be realized. To address these concerns, the City has included revisions to the HMP and associated LUP policies which address establishment of the preserve area, funding, monitoring and management. Interim preserve management requirements, as provided in the draft HMP, will cover the first three years following approval of the HMP, during which time a plan for permanent management will be developed by the City in cooperation with existing reserve managers, private owners, and the wildlife agencies. The preserve management plan must be approved by the City, the wildlife agencies and the Commission, and shall

ensure adequate funding to protect the preserve as open space and maintain the biological values of the mitigation areas in perpetuity. Additionally, the preserve management plan is required to be incorporated into the Implementation Plan of the LCP through an LCP amendment within one year of Commission certification of the HMP as part of the certified LCP.

APPENDIX B – SUBSTANTIVE FILE DOCUMENTS

- City of Carlsbad LCP Amendment No. LCP-6-CII-17-0031-3
- City of Carlsbad Mello II Segment LCP
- City of Carlsbad Habitat Management Plan
- Planning Commission Resolution No. 7226
- Planning Commission Resolution No. 7224
- Memorandum re: Alternatives Analysis for Poinsettia 61 Project, prepared by Dudek, dated September 2015
- Comments on Draft EIR for the Poinsettia 61 Project (SCH #2016031006), from Erin Prahler, California Coastal Commission to Van Lynch, City of Carlsbad, dated December 15, 2016
- City of Carlsbad Major Amendment No 1-03B (Habitat Management Plan) to Mello I, Mello II, and Agua Hedionda Land Use Plan Segments, and Associated Federal Consistency Item No. CC-007-003, June 2003