

## **CALIFORNIA COASTAL COMMISSION**

SAN DIEGO DISTRICT OFFICE  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4402  
VOICE (619) 767-2370  
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# **Th14a**

**LCP-6-CII-19-0145-1 (Ocean View Point)**

**August 13, 2020**

## **EXHIBITS**

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**EXHIBIT 1: Vicinty Map**

**EXHIBIT 2: Proposed LCP Land Use Map Changes**

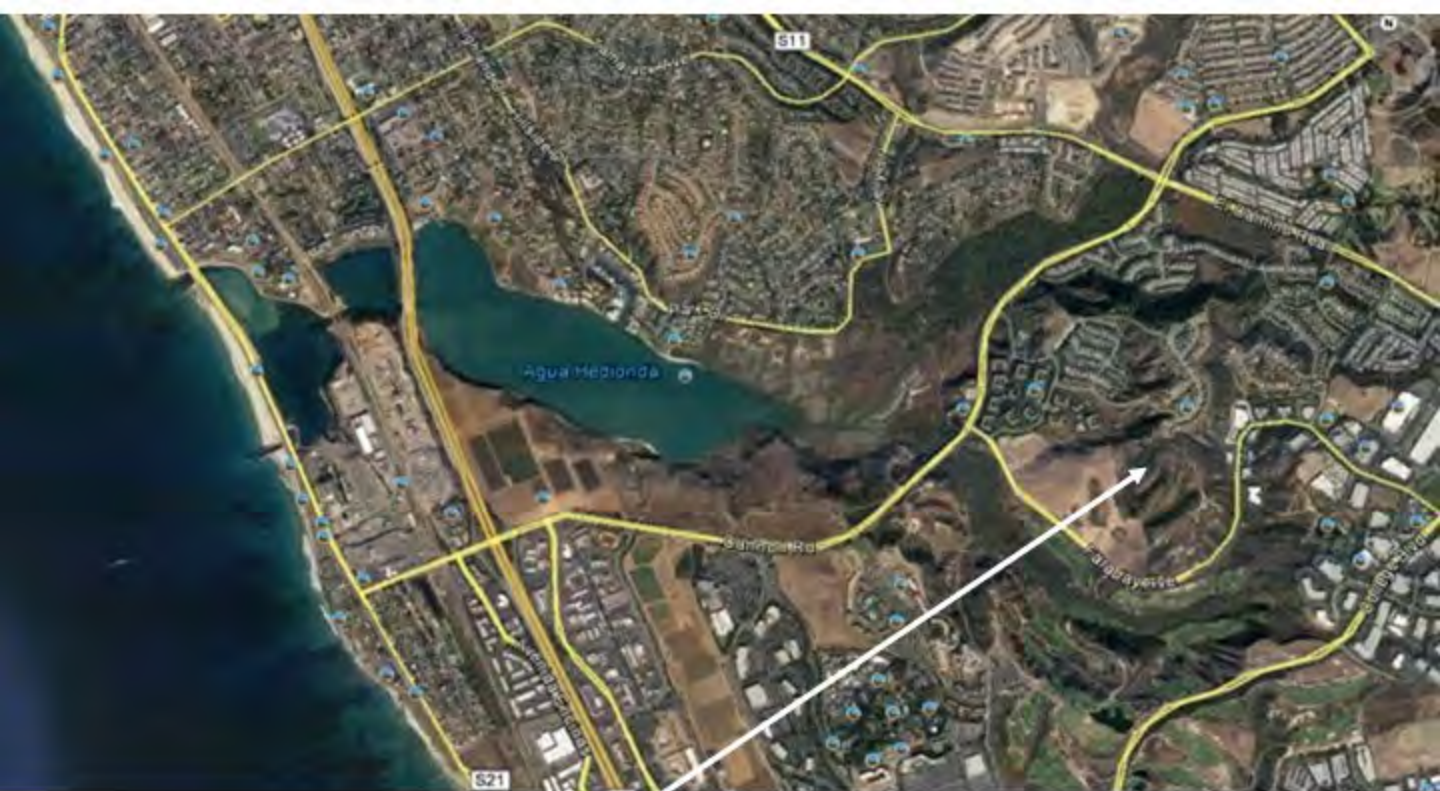
**EXHIBIT 3: Proposed LCP Zoning Map Changes**

**EXHIBIT 4: Development Envelope Changes**

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Department of Fish and Wildlife to the City of Carlsbad  
Regarding HMP Consistency Findings for the Ocean View  
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Ocean View Point Site



-  Veteran's Park
-  Existing HMP Preserve



EXHIBIT NO. 1

Vicinity Map

LCP-6-CII-19-0145-1

California Coastal Commission

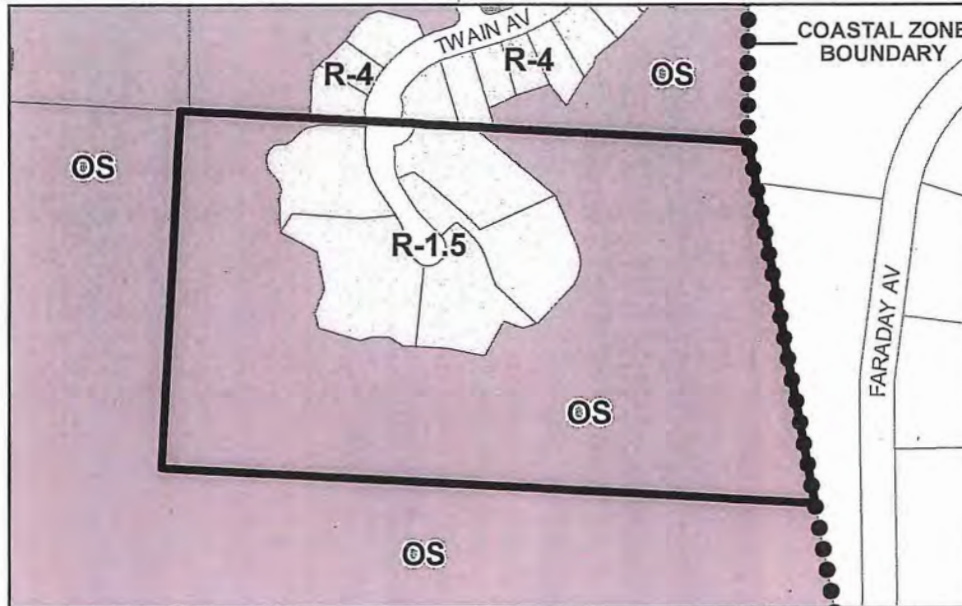


# Exhibit "LCPA 15-05"

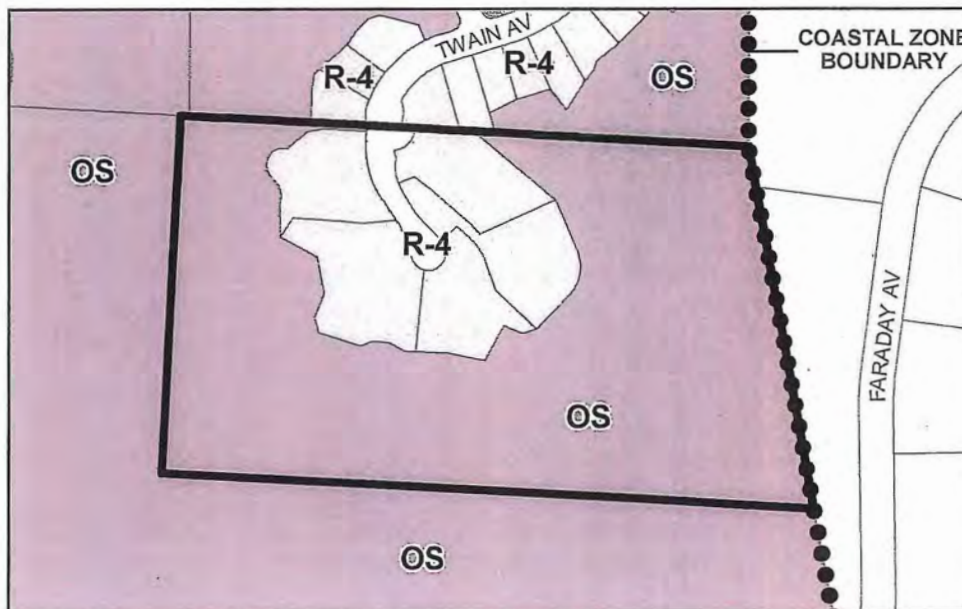
June 19, 2019

LCPA 15-05 (Land Use)

Ocean View Point



EXISTING



PROPOSED

Related Case File No(s): GPA 15-02 / ZC 15-03 / CT 15-07 /  
PUD 15-15 / CDP 15-53 / HDP 15-03 / HMP 15-05

LCPA Land Use Designation Changes

	Property	From:	To:
A.	212-272-01-00	R-1.5	R-4
B.	212-272-02-00	R-1.5	R-4
C.	212-272-03-00	R-1.5	R-4
D.	212-272-04-00	R-1.5	R-4
E.	212-272-05-00	R-1.5	R-4
F.	212-272-07-00	OS	OS

EXHIBIT NO. 2

Proposed LCP Land Use Map Change

LCP-6-CII-19-0145-1

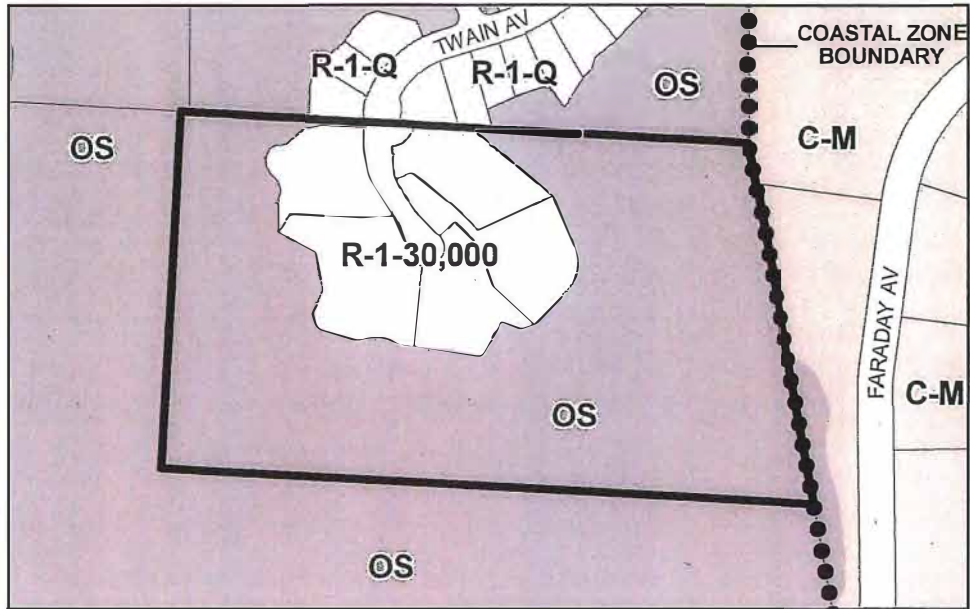
California Coastal Commission

# Exhibit "LCPA 15-05"

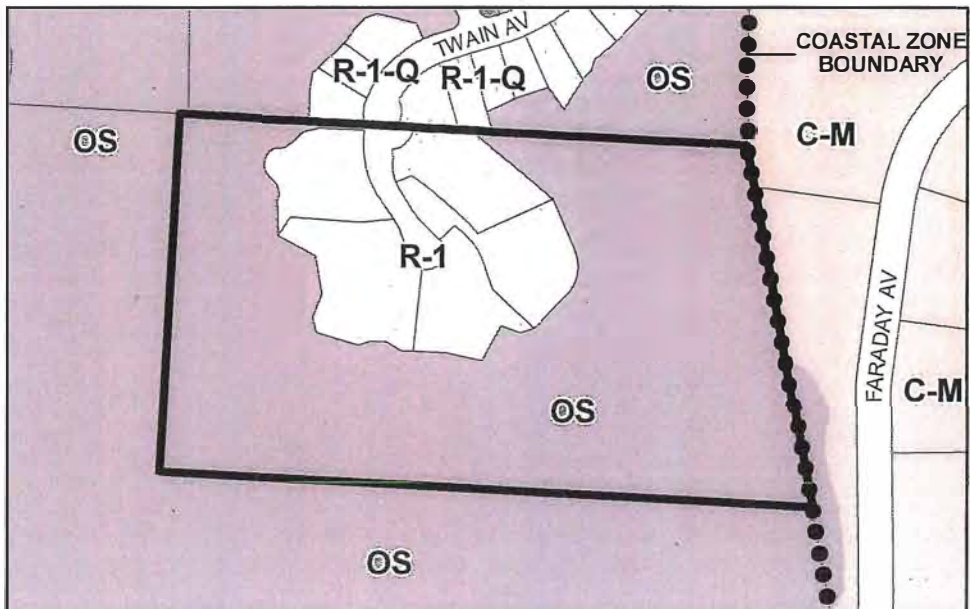
June 19, 2019

## LCPA 15-05 (Zoning)

Ocean View Point



### EXISTING



### PROPOSED

Related Case File No(s): GPA 15-02 / ZC 15-03 / CT 15-07 /  
PUD 15-15 / CDP 15-53 / HDP 15-03 / HMP 15-05

#### LCPA Zoning Designation Changes

Property	From:	To:
A. 212-272-01-00	R-1-30,000	R-1
B. 212-272-02-00	R-1-30,000	R-1
C. 212-272-03-00	R-1-30,000	R-1
D. 212-272-04-00	R-1-30,000	R-1
E. 212-272-05-00	R-1-30,000	R-1
F. 212-272-07-00	OS	OS

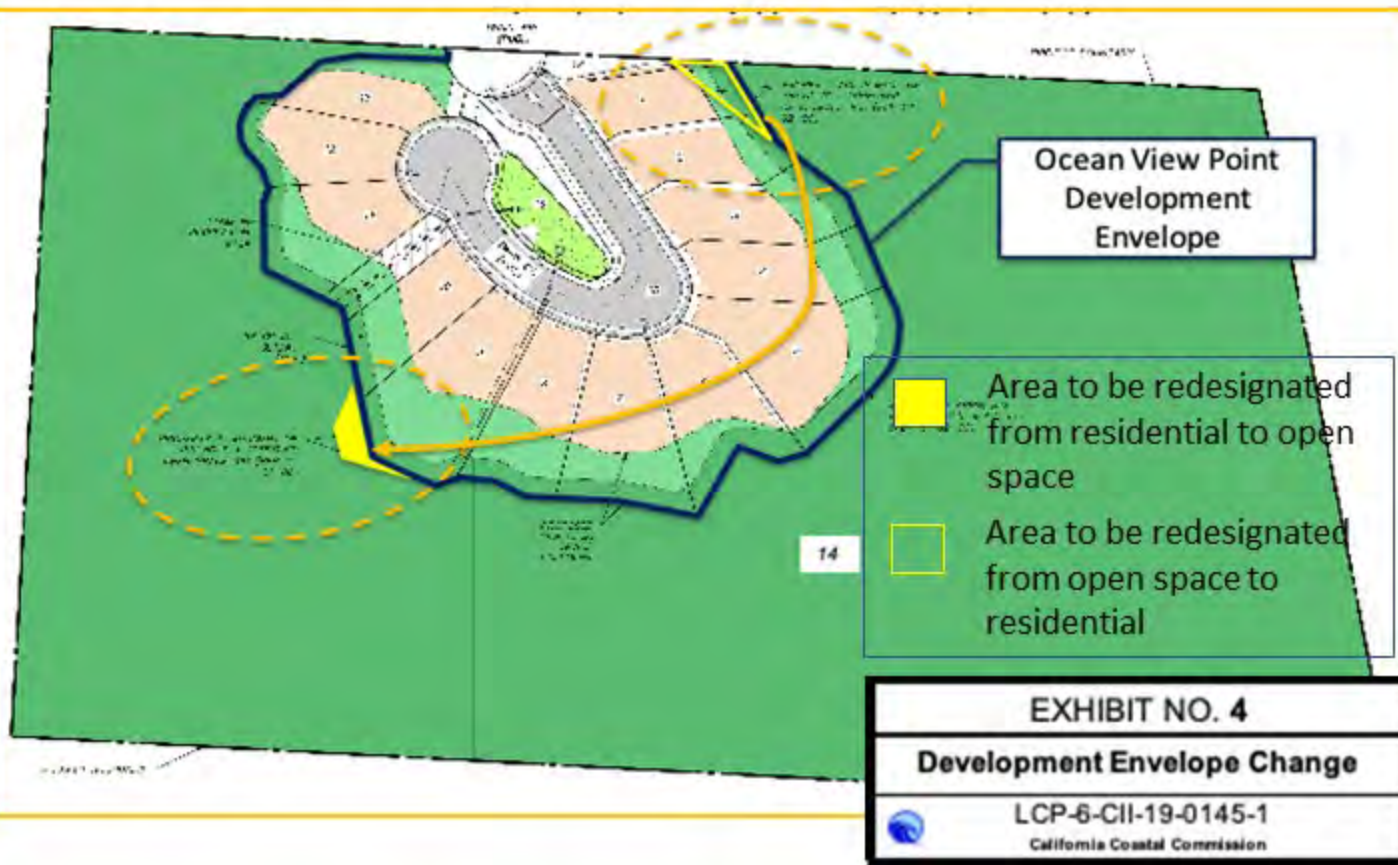
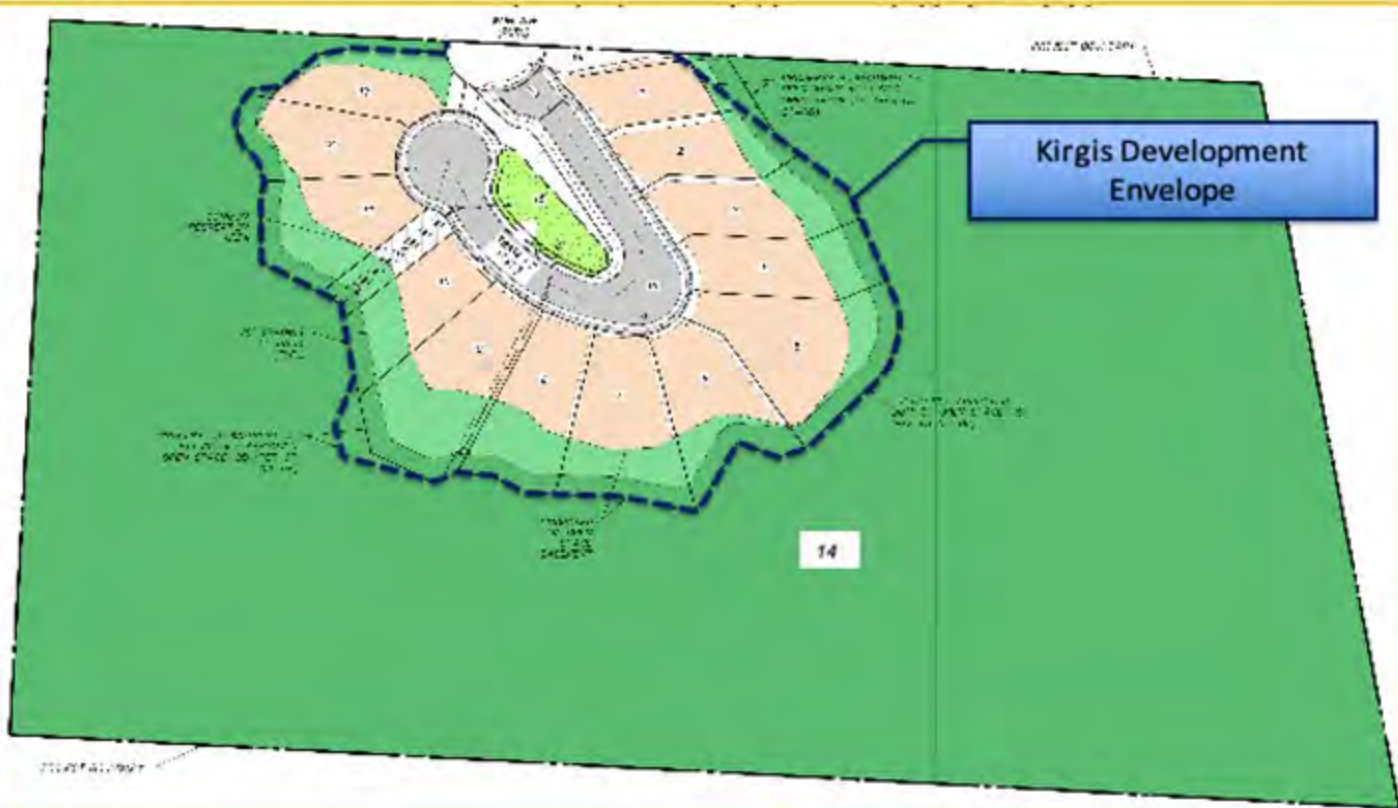
EXHIBIT NO. 3

Proposed LCP Zoning Map Change

LCP-6-CII-19-0145-1

California Coastal Commission







U.S. FISH AND WILDLIFE SERVICE  
Carlsbad Fish and Wildlife Office  
2177 Salk Avenue, Suite 250  
Carlsbad, California 92008



CALIFORNIA DEPARTMENT OF  
FISH AND WILDLIFE  
South Coast Region  
3883 Ruffin Road  
San Diego, California 92123

In Reply Refer To:  
FWS/CDFW-SDG-02B0020-19CPA0109

March 15, 2019  
*Sent by Email*

Mr. Don Neu  
City Planner  
City of Carlsbad – Community & Economic Development  
1635 Faraday Avenue  
Carlsbad, California 92008-7314

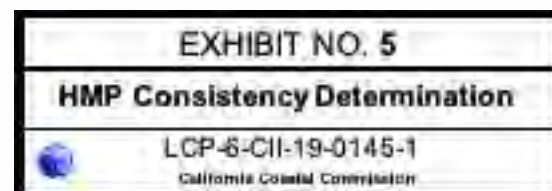
Attention: Jason Goff, Senior Planner

Subject: Habitat Management Plan Consistency Findings for the Ocean View Point Project,  
City of Carlsbad, California

Dear Mr. Neu:

The U.S. Fish and Wildlife Service (Service) and the California Department of Fish and Wildlife (Department), hereafter collectively referred to as the Wildlife Agencies, have reviewed your February 12, 2019, letter requesting concurrence that the Ocean View Point Project (Project) in the City of Carlsbad (City) is consistent with the requirements and conservation standards of the City's Habitat Management Plan (HMP). The Wildlife Agencies previously concurred in our October 12, 2018, letter (FWS/CDFW-SDG-02B0020-19CPA0010) that the Project was consistent with the City's HMP except for the Coastal Zone standards. Since that time, additional information has been provided by the Applicant to address the Coastal Zone standards. Therefore, our review of the Project is based upon the information provided in your letters; the updated Biological Resources Letter Report (Dudek 2019); a memo from J. Whalen Associates dated February 5, 2019; our knowledge of sensitive and declining vegetation communities in the County of San Diego; and our participation in regional conservation planning efforts including the City's HMP.

The primary concern and mandate of the Service is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Federal Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), including habitat conservation plans (HCPs) developed under section 10(a)(1) of the Act. The Department is a Trustee Agency and a Responsible Agency pursuant to the California Environmental Quality Act (CEQA), Sections 15386 and 15381, respectively. The Department is responsible for the conservation, protection, and management of the State's biological resources, including rare, threatened, and endangered plant and animal species,



pursuant to the California Endangered Species Act (CESA), and administers the Natural Community Conservation Planning (NCCP) program. The City is participating in the Service's HCP programs and the Department's NCCP through the implementation of its HMP.

The 21.82-acre project site is located at the southern terminus of Twain Avenue, within the Coastal Zone, within a Standards Area in Local Facilities Management Zone (LFMZ) 8 and is referred to as the Kirgis property in the HMP. The project site includes 15.2 acres of coastal sage scrub, and 5.56 acres of southern maritime succulent scrub (Table 1) and is occupied by two pairs of the federally threatened coastal California gnatcatcher (*Poliophtila californica californica*; gnatcatcher) (Dudek 2019).

The Project includes the construction of a residential development that will impact a total of 4.77 acres including coastal sage scrub (4.13 acres), disturbed (0.51 acre), and developed (0.13 acre).

**Table 1. Ocean View Impacts and Conserved Open Space**

General Habitat Vegetation Community	Permanent	Buffer <sup>1</sup> (Impact Neutral)	Conserved Open Space	Grand Total
<b>Chaparral</b>				
Southern Maritime Chaparral	0.00 <sup>2</sup>	0.00	5.65	5.65
<b>Coastal Scrub</b>				
Diegan Coastal Sage Scrub	3.99	0.60	10.15	14.74
Disturbed Diegan Coastal Sage Scrub	0.14	0.05	0.27	0.46
<b>Subtotal Coastal Sage Scrub</b>	<b>4.13</b>	<b>0.65</b>	<b>10.42</b>	<b>15.20</b>
<b>Total Native Vegetation</b>	<b>4.13</b>	<b>0.65</b>	<b>16.07</b>	<b>20.85</b>
<b>Non-Native Vegetation</b>				
Disturbed Habitat	0.51	0.08	0.25	0.84
<b>Urban/Developed</b>				
Urban/Developed	0.13	0.00	0.00	0.13
<b>Total Non-native Vegetation</b>	<b>0.64</b>	<b>0.08</b>	<b>0.25</b>	<b>0.97</b>
<b>GRAND TOTAL</b>	<b>4.77</b>	<b>0.73</b>	<b>16.32</b>	<b>21.82</b>

<sup>1</sup> The buffer refers to the 20-foot upland setback required in the Coastal Zone between conserved open space upland habitat and development.

<sup>2</sup> All units are in acres.

### **General HMP Requirements**

To ensure the Project is consistent with the general HMP requirements, the Applicant will implement the following measures:

1. Mitigate habitat impacts consistent with Table 11 of the HMP (Table 2);



2. No clearing of occupied coastal sage scrub will occur between March 1 and August 15, consistent with the conditions of coverage for the gnatcatcher in Table 9 of the HMP; and
3. Adhere to the Adjacency Standards as specified in the HMP (Section F.3, pp. F-16 to F-24).

**Table 2. Habitat Mitigation**

Habitat Group & Type	Required Mitigation Ratio	Impact Acreage	Required Mitigation Acreage/fee
C. Gnatcatcher-occupied coastal sage scrub	2:1	4.13	8.26 acres
F. Disturbed lands, eucalyptus, agricultural lands	Mitigation fee <sup>1</sup>	0.51	\$1,708.40

<sup>1</sup> Pursuant to HMP Table 11, offsite mitigation for Group F shall pay a per acre *in lieu* mitigation fee. The fee amount shown above is subject to change based on the current fee schedule in place at the time of payment.

### **LFMZ 8 Conservation Goals/Standards**

The project is consistent with LFMZ 8 zone-specific standards as discussed below:

- There are no wetland impacts;
- Narrow Endemic plants do not occur on the project site;
- The Project will impact 4.77 acres (22 percent) of the property, which is less than the allowed maximum of 25 percent; and
- Project impacts will occur adjacent to existing development in the least environmentally sensitive portion of the property and impacts to southern maritime chaparral, coastal sage scrub and the gnatcatcher have been avoided and/or minimized to the greatest extent feasible.

### **Coastal Zone Standards**

Environmentally Sensitive Habitat Areas are present on the Project site including southern maritime chaparral and coastal sage scrub. The project will conserve 17.05 acres (about 78 percent) of the property, which exceeds the 75 percent standard, including all the southern maritime chaparral and 10.42 acres (about 69 percent) of the coastal sage scrub which exceeds the 67 percent standard (Table 3). The project will also cluster development immediately adjacent to Kelly Ranch and establish a minimum 20-foot upland buffer between development and the on-site preserve.



Impacts to coastal sage scrub will be mitigated at a 2:1 ratio (Table 3). Onsite preservation is not eligible for mitigation credit in the Coastal Zone (HMP p. D-115); therefore, a minimum of 8.26 acres of off-site coastal sage scrub mitigation in the Coastal Zone is required. In addition, the 8.26 acres must be comprised of at least 4.13 acres of creation/substantial restoration, which can be satisfied on already conserved lands. The Applicant has proposed to create/substantially restore 6.17 acres of coastal sage scrub at four locations: onsite, Emerald Pointe, Shorepointe, and Mitsuuchi (Table 3). To satisfy the remaining off-site preservation requirement, the Applicant has proposed to enhance/restore 2.49 acres of coastal sage scrub. This 2.49 acres, coupled with the 6.17 acres of creation/substantial restoration totals 8.66 acres of proposed off-site mitigation (Table 3), which is 0.4 acre more than is required by the Coastal Zone standards.

**Table 3. Coastal Zone Coastal Sage Scrub Mitigation**

Mitigation Type	Properties in the Coastal Zone					
	Requirement	Onsite	Emerald Pointe	Shorepointe	Mitsuuchi	Total
Preservation	10.18 <sup>1</sup>	10.42				10.42
Creation/Substantial Restoration	4.13	0.11	0.87	3.27	1.92	6.17
Restoration/Enhancement	4.13	0.45	0.49	1.23	0.32	2.49
<b>Total Mitigation Credit</b>	<b>18.44</b>	<b>10.98</b>	<b>1.36</b>	<b>4.50</b>	<b>2.24</b>	<b>19.08</b>

<sup>1</sup>All units are in acres.

It is the Applicant's responsibility to ensure that the underlying landowners provide approvals for the proposed mitigation at Emerald Pointe, Shorepointe, and Mitsuuchi. In addition, the Mitsuuchi parcel was purchased with federal Endangered Species Act Section 6 grant funding, allocated by the Wildlife Conservation Board (WCB) with matching funds from the California Coastal Conservancy (Conservancy). The subgrant deed for the property currently states that the site cannot be used for mitigation. However, the subgrant agreement can be amended to allow mitigation at the discretion of the Conservancy and WCB. Therefore, it will also be the responsibility of the Applicant to provide documentation from the Conservancy and WCB that the subgrant deed has been amended to allow Project-related mitigation on the Mitsuuchi property. We also recommend that the Applicant work with the Batiquitos Lagoon Foundation, owner of the Mitsuuchi property, to ensure that the restoration sites are protected from potential direct and indirect effects associated with approved public uses on the property.

The on- and off-site mitigation areas will be conserved with a conservation easement and managed in perpetuity by an entity approved by the City, California Coastal Commission (CCC), and the Wildlife Agencies. The City, CCC, and the Wildlife Agencies will also approve the final creation/substantial restoration and long-term management plans. Approval of the final creation/substantial restoration plan will be coordinated with meetings and/or a site visit to determine where substantial restoration could occur at all of the on- and off-site mitigation areas, as described

in the Biological Resources Letter Report (Dudek 2019). In addition, a non-wasting endowment will be established for the long-term management of all the on- and off-site mitigation areas.

Based on the above, the Wildlife Agencies concur that other than the Coastal Zone standards, for which we defer to the CCC, the Project is consistent with the HMP. We appreciate the Applicant's and City's efforts to ensure consistency with the HMP. If you have any questions regarding this letter, please contact Christine Beck (Department) at 858-637-7188 or Janet Stuckrath (Service) at 760-431-9440, extension 270.

Sincerely,

DAVID

ZOUTENDYK

Digitally signed by DAVID  
ZOUTENDYK  
Date: 2019.03.15 10:15:35 -07'00'



for Karen A. Goebel  
Assistant Field Supervisor  
U.S. Fish and Wildlife Service

Gail K. Sevens  
Environmental Program Manager  
California Department of Fish and Wildlife

cc:

Rosanne Humphrey, City of Carlsbad

#### LITERATURE CITED

Dudek. 2019. Biological Resources Letter Report and Impacts Analysis, Hynek Property, City of Carlsbad, San Diego County, California. Prepared for Gayl Hynek, January 29, 2019.



**RESOLUTION NO. 2019-144**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION, MITIGATION MONITORING AND REPORTING PROGRAM, AND ADDENDUM; APPROVING A GENERAL PLAN AMENDMENT TO AMEND THE LAND USE ELEMENT OF THE GENERAL PLAN FROM RESIDENTIAL (R-1.5) TO RESIDENTIAL (R-4) AND A LOCAL COASTAL PROGRAM AMENDMENT TO REFLECT THE PROPOSED GENERAL PLAN LAND USE; AND APPROVING A TENTATIVE TRACT MAP, PLANNED DEVELOPMENT PERMIT, COASTAL DEVELOPMENT PERMIT, HILLSIDE DEVELOPMENT PERMIT, AND HABITAT MANAGEMENT PLAN PERMIT TO ALLOW FOR THE SUBDIVISION AND DEVELOPMENT OF 18 LOTS (13 SINGLE-FAMILY RESIDENTIAL, ONE PRIVATE STREET, AND FOUR OPEN SPACE), ALL OF WHICH IS CONTAINED WITHIN A 21.9-ACRE PREVIOUSLY SUBDIVIDED PROPERTY GENERALLY LOCATED SOUTH OF THE TERMINUS OF TWAIN AVENUE WITHIN THE MELLO II SEGMENT OF THE LOCAL COASTAL PROGRAM AND LOCAL FACILITIES MANAGEMENT ZONE 8.

CASE NAME: OCEAN VIEW POINT

CASE NO.: GPA 15-02/LCPA 15-05/CT 15-07/PUD 15-15/  
CDP 15-53/HDP 15-03/HMP 15-05 (DEV15043)

WHEREAS, City Council of the City of Carlsbad, California has determined that pursuant to the provisions of the Carlsbad Municipal Code, the Planning Commission did, on June 19, 2019, hold a duly noticed public hearing as prescribed by law to consider a Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program and Addendum; General Plan Amendment GPA 15-02, Local Coastal Program Amendment LCPA 15-05, Tentative Tract Map CT 15-07, Planned Development Permit PUD 15-15, Coastal Development Permit CDP 15-53, Hillside Development Permit HDP 15-03, and Habitat Management Plan Permit HMP 15-05, as referenced in Planning Commission Resolution Nos. 7337, 7338 and 7339; and the Planning Commission adopted Resolution Nos. 7337, 7338 and 7339 recommending to the City Council that they be approved; and

WHEREAS, the City Council of the City of Carlsbad held a duly noticed public hearing to consider said Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program and Addendum; and General Plan Amendment, Local Coastal Program Amendment, Tentative Tract Map, Planned Development Permit, Coastal Development Permit, Hillside Development Permit, and Habitat Management Plan Permit.

**EXHIBIT NO. 6**

**Resolution No. 2019-144**

LCP-6-CII-19-0145-1  
California Coastal Commission

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors relating to the Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program and Addendum; and General Plan Amendment, Local Coastal Program Amendment, Tentative Tract Map, Planned Development Permit, Coastal Development Permit, Hillside Development Permit, and Habitat Management Plan Permit.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Carlsbad, California, as follows:

1. That the above recitations are true and correct.
2. That the recommendation of the Planning Commission for the adoption of a Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program and Addendum; and approval of General Plan Amendment GPA 15-02, Local Coastal Program Amendment LCPA 15-05, Tentative Tract Map CT 15-07, Planned Development Permit PUD 15-15, Coastal Development Permit CDP 15-53, Hillside Development Permit HDP 15-03, and Habitat Management Plan Permit HMP 15-05, are adopted and approved, and that the findings and conditions of the Planning Commission contained in Planning Commission Resolution Nos. 7337, 7338 and 7339 on file with the City Clerk and incorporated herein by reference, are the findings and conditions of the City Council.
3. That the approval of GPA 15-02 as shown on Exhibit "GPA 15-02" – OCEAN VIEW POINT dated June 19, 2019, attached hereto and made a part hereof, shall not be effective until LCPA 15-05 is approved by the California Coastal Commission and the California Coastal Commission's approval becomes effective.
4. That the approval of LCPA 15-05 as shown on Exhibit "LCPA 15-05" – OCEAN VIEW POINT dated June 19, 2019, attached hereto and made a part hereof, shall not be effective until it is approved by the California Coastal Commission and the California Coastal Commission's approval becomes effective.
5. This action is final the date this resolution is adopted by the City Council. The Provisions of Chapter 1.16 of the Carlsbad Municipal Code, "Time Limits for Judicial Review" shall apply:

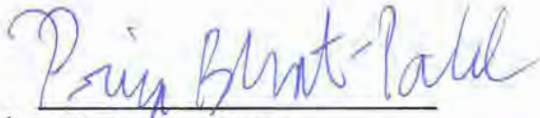


"NOTICE"

The time within which judicial review of this decision must be sought is governed by Code of Civil Procedure, Section 1094.6, which has been made applicable in the City of Carlsbad by Carlsbad Municipal Code Chapter 1.16. Any petition or other paper seeking review must be filed in the appropriate court not later than the ninetieth day following the date on which this decision becomes final; however, if within ten days after the decision becomes final a request for the record is filed with a deposit in an amount sufficient to cover the estimated cost or preparation of such record, the time within which such petition may be filed in court is extended to not later than the thirtieth day following the date on which the record is either personally delivered or mailed to the party, or his attorney of record, if he has one. A written request for the preparation of the record of the proceedings shall be filed with the Office of the City Clerk, City of Carlsbad, 1200 Carlsbad Village Drive, Carlsbad, CA 92008.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the 20<sup>th</sup> day of August 2019, by the following vote, to wit:

AYES:           Bhat-Patel, Blackburn, Schumacher, Hamilton.  
NAYS:           None.  
ABSENT:       Hall.

  
for MATT HALL, Mayor

  
for BARBARA ENGLESON, City Clerk

(SEAL)



**ORDINANCE NO. CS-358**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING AMENDMENTS TO THE CITYWIDE ZONING AND LOCAL COASTAL PROGRAM ZONING MAPS TO ALLOW A CHANGE FROM ONE-FAMILY RESIDENTIAL 30,000 SQUARE FOOT MINIMUM LOT AREA (R-1-30,000) TO ONE-FAMILY RESIDENTIAL (R-1) FOR A 5.4-ACRE PORTION OF A 21.9-ACRE PREVIOUSLY SUBDIVIDED PROPERTY GENERALLY LOCATED SOUTH OF THE TERMINUS OF TWAIN AVENUE WITHIN THE MELLO II SEGMENT OF THE LOCAL COASTAL PROGRAM AND LOCAL FACILITIES MANAGEMENT ZONE 8.

CASE NAME: OCEAN VIEW POINT

CASE NO.: ZC 15-03/LCPA 15-05 (DEV15043)

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WHEREAS, **OCEAN VIEW-CARLSBAD, LLC**, "Developer/Owner," has filed a verified application with the City of Carlsbad regarding property described as

**Lots 1 through 7, inclusive, of City of Carlsbad Tract No. CT 02-06, in the City of Carlsbad, County of San Diego, State of California, according to map thereof No. 16265, filed in the Office of the County Recorder of San Diego County on April 27, 2018**

("the Property"); and

WHEREAS, said verified application constitutes a request for a Zone Change and Local Coastal Program Amendment as shown on Exhibits "**ZC 15-03**" and "**LCPA 15-05**" – **OCEAN VIEW POINT** dated **June 19, 2019**, attached hereto and made a part hereof; and

WHEREAS, the City Council held a duly noticed public hearing as prescribed by law to consider said request; and

WHEREAS at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said City Council considered all factors relating to the "**ZC 15-03/LCPA 15-05 – OCEAN VIEW POINT.**"

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Carlsbad, California, does ordain as follows:

1. The above recitations are true and correct.





2. That Section 21.05.030 of the Carlsbad Municipal Code, being the Zoning Map and the Local Coastal Program Zoning Map, are amended as shown on the maps marked "ZC 15-03 – OCEAN VIEW POINT" and "LCPA 15-05 – OCEAN VIEW POINT" dated June 19, 2019, attached hereto and made a part hereof.

3. That the findings and conditions of the Planning Commission in Planning Commission Resolution No. 7338 shall also constitute the findings and conditions of the City Council.

EFFECTIVE DATE: This ordinance shall be effective thirty days after its adoption; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption. (Notwithstanding the preceding, this ordinance shall not be effective until LCPA 15-05 is approved by the California Coastal Commission.)

INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the 20<sup>th</sup> day of August, 2019, and thereafter

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the 27<sup>th</sup> day of August 2019, by the following vote, to wit:

AYES: Hall, Bhat-Patel, Blackburn, Schumacher, Hamilton.

NAYS: None.

ABSENT: None.

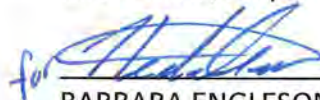
APPROVED AS TO FORM AND LEGALITY:



CELIA A. BREWER, City Attorney



MATT HALL, Mayor



BARBARA ENGLERSON, City Clerk

Hector Gomez,  
Deputy City Clerk

(SEAL)

