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Date: July 23, 2020

To: COMMISSIONERS AND INTERESTED PERSONS

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Subject: STAFF RECOMMENDATION ON CITY OF CARLSBAD MAJOR
AMENDMENT NO. LCP-6-CII-19-0145-1 (OCEAN VIEW POINT) for
Commission Meeting of August 12-14, 2020

SYNOPSIS

The subject City of Carlsbad Local Coastal Program (LCP) land use plan and implementation plan amendment was submitted and filed as complete on October 14, 2019. A one-year time extension was granted on December 11, 2019. As such, the last date for Commission action on this item is February 25, 2021. This report addresses the entire submittal.

SUMMARY OF AMENDMENT REQUEST

The City of Carlsbad is requesting to amend the land use designations and rezone a 21.9 acre property. The subject site is located at the inland boundary of the coastal zone, at the southern terminus of Twain Avenue and surrounded on the west and south by city-owned property, including Veterans Memorial Park ([Exhibit 1](#)). The subject LCP amendment would modify the land use designations from Residential 0-1.5 du/ac (R-1.5) and Open Space (OS) to Residential 0-4 du/ac (R-4) and OS ([Exhibit 2](#)). The existing zoning on the site would be modified from One-Family Residential with a minimum lot size of 30,000 square feet (R-1-30,000) and OS to One-Family Residential (R-1) and OS ([Exhibit 3](#)). The proposed land use and zoning modifications will also slightly adjust the boundaries between residential development and open space that were approved by the Commission in a prior LCP amendment request and will formalize new boundaries for the City's Habitat Management Plan (HMP) Preserve on the site ([Exhibit 4](#)). The new open space designated area will add approximately 16.5 acres of sensitive habitat area to the HMP Preserve for conservation and management in perpetuity.

The site consists of several ridges with gently sloping canyons. Adjacent land uses include open space and single family residential to the north, Faraday Avenue and an industrial office park to the east, and city-owned property (including Veterans Memorial Park)

designated as open space to the south and west. The open space areas surrounding the subject site are all part of the HMP Preserve.

In April 2005, the Commission approved LCP Amendment No. 1-04B (Kirgis), certifying the existing land use designations and zoning on the site. The Kirgis LCP amendment designated 5.4 acres for residential development surrounding the terminus of Twain Avenue at the north-central portion of the site. The remaining 16.5 acres was designated for open space to be added to the City's HMP Preserve ([Exhibits 2 and 3](#)). The City approved a coastal development permit to subdivide the site into seven lots consisting of five minimum 30,000 square foot single family residential lots, one private street lot, and one open space preserve lot. However, no grading or development of this site has occurred, and the open space area was never incorporated into the HMP Preserve.

This LCP amendment is a project-driven amendment that would facilitate a project to re-subdivide the property into 13 single family residential lots, one private street lot, one open space lot for water quality treatment, one open space lot for community recreation, one open space lot for community landscape, and one 16.5-acre lot for permanently preserved open space. The proposed development envelope is substantially the same as the previously approved development envelope ([Exhibit 4](#)).

The project site contains approximately 21 acres of environmentally sensitive habitat area (EHSA), including coastal sage scrub and southern maritime chaparral. No southern maritime chaparral would be impacted, however, the proposed development envelope would result in impacts to 4.13 acres of coastal sage scrub. The applicant has identified opportunities to mitigate for these impacts within the open space area of the project site, as well as at several offsite locations. The City's coastal development permit for the underlying residential project will ensure that mitigation types and ratios will be consistent with the requirements of the City's LCP and certified HMP. The site is not within an appealable area, but staff will monitor for any issues during the local permitting process.

The proposed amendment will affect both the certified LCP land use plan and implementation plan. This site is located in the Mello II segment of the City's certified LCP.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval of the land use plan (LUP) and implementation plan (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. 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, and a coastal development permit from the City of Carlsbad will also be required.

The project site contains significant sensitive biological resources and is identified in the HMP as a "standards area" known as the Kirgis property. As proposed, the development envelope will result in 4.13 acres of impact to environmentally sensitive habitat area (ESHA), consisting of coastal sage scrub habitat. 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 the parcel and describe the types of impacts to ESHA that can be associated with any proposed development.

The proposed development envelope is consistent with all HMP standards. Although the proposed modifications to land use and zoning will allow an increase in residential density, the development envelope is in substantially the same configuration as the footprint previously approved for development by the Commission. The proposed residential development will be clustered on the least environmentally sensitive habitat on the site, which is adjacent to existing residential development. The HMP mandates a 25% development right for this site, and the proposed development envelope represents 25% of the property. The remaining 75% of the site will be conserved and managed as part of the City's HMP Preserve. The proposed amendment will add approximately 16.5 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 a management program to ensure conservation of sensitive habitat on the subject property in perpetuity. The proposed land use changes are consistent with the HMP, which the Commission certified in 2003. The zoning redesignations are consistent with the Mello II and HMP components of the certified LUP. The City's coastal development permit must ensure that impacts to ESHA will be mitigated consistent with the requirements of the City's LCP, including the HMP. 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](#)).

Staff recommends that the Commission find that the City's proposed amendment to the land use plan, as submitted, meets the requirements of, and conforms with, the Chapter 3 policies of the Coastal Act. Additionally, staff recommends that the City's proposed amendment to the implementation plan, as submitted, be found to be consistent with, and adequate to carry out, the certified Mello II LUP and HMP.

The appropriate resolutions and motions begin on page 8.

HMP PROCEDURAL BACKGROUND

The Carlsbad HMP was prepared to satisfy the requirements of a federal Habitat Conservation Plan. It functions as a subarea plan of the regional Multiple Habitat Conservation Plan (MHCP). The MHCP study area involves 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 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 to meet the criteria 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 JRMCo); 4-09D (Tabata Ranch); 4-09E (Tabata 10); 1-10A (Muroya);

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

LCP-6-CII-14-0837-2 (Daybreak Community Church); and LCP-6-CII-17-0031-3 (Poinsettia 61).

ADDITIONAL INFORMATION

Further information on the City of Carlsbad LCP Amendment No. LCP-6-CII-19-0145-1 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 – Development Envelope Changes](#)

[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 Ocean View Point Project, dated March 15, 2019](#)

[Exhibit 6 – City Council Resolution No. 2019-144](#)

[Exhibit 7 – City Council Ordinance No. CS-358](#)

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

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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-Barrio. 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. The Village LCP segment was expanded and renamed the Village-Barrio in 2019. 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 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

The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

II. MOTION AND 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.

1. MOTION:

I move that the Commission certify Land Use Plan Amendment LCP-6-CII-19-0145-1 as submitted by the City of Carlsbad.

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

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 Land Use Plan Amendment LCP-6-CII-19-0145-1 as submitted by the City of Carlsbad and adopts the findings set forth below on grounds that the land use plan 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 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.

2. MOTION:

I move that the Commission reject Implementation Program Amendment LCP-6-CII-19-0145-1 as submitted by the City of Carlsbad.

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 LCP-6-CII-19-0145-1 as submitted by the City of Carlsbad 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 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.

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 site from R-1.5 (Residential 0-1.5 du/ac) and Open Space (OS) to R-4 (Residential 0-4 du/ac) and OS. The 5.4 acres designated for residential will concentrate the development footprint on the north-central portion of the site. The remaining 16.5 acres will be designated for OS to reflect the conservation of habitat area on the southern portion of the project site ([Exhibit 2](#)).

B. CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT

The Commission finds, pursuant to Section 30512.2(b) of the Coastal Act, that the Land Use Plan as set forth in the preceding resolutions, is in conformance with the policies and requirements of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act which 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.

The Commission therefore finds, for the specific reasons detailed below, that the land use plan conforms with Chapter 3 of the Coastal Act and the goals of the state for the coastal zone with regards to LCP Amendment No. LCP-6-CII-19-0145-1.

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

Relevant Coastal Act policies include the following:

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 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 implements Section 30240 as it applies to environmentally sensitive habitat areas in the City, and the Commission 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 transfer; and
- Provide a framework for coordinating and monitoring the protection and management of biological resources in natural open space...

Zone 8 Policies

HMP Conservation Goals

Ensure no net loss of wetland habitats and minimize loss of sensitive upland habitats within Core Area 4, especially occupied coastal sage scrub. Conserve major and critical populations of HMP species and populations of Narrow Endemic species. Maintain contiguity between upland and wetland habitats within the zone, as well as continuity of sensitive upland habitats across the zone from southeast to northwest.

Planning Standards

There are two properties within this zone that are designated as standards areas; the Kirgis property and the Callaghan property. Both properties are required to avoid impacts to any identified Narrow Endemic plant populations. Impacts to coastal sage scrub and southern maritime chaparral habitats shall also be avoided, with impacts limited to smaller fragments, edges, lower quality areas, and areas devoid of sensitive species. The Kirgis property shall be allowed a maximum of 25% of the parcel for development purposes...Both properties shall place their development on the least environmentally sensitive portion of the property.

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 7-2 Coastal Sage Scrub

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

Policy 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 linkages 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...

- a. [...]
- b. Assessor's Parcel No. 212-010-3 (Kirgis) – Preserve 75% of property with development clustered immediately adjacent to Kelly Ranch.

Components of Preserve System

The adopted HMP protects the endangered California gnatcatcher and other listed species by contributing to an interlinked regional preserve system. The preserve area for the HMP includes 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. As previously described, the subject amendment will modify the boundaries of residential and open space designations to slightly adjust the previously approved development footprint and increase the density allowed within that footprint. The area proposed for the open space designation includes the majority of the sensitive habitat (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 concern raised by the proposed land use designation changes is the potential for adverse impacts to ESHA. The project site is comprised of 3 different vegetation communities including: coastal sage scrub (15.2 acres), southern maritime chaparral (5.7 acres), and disturbed habitat (0.8 acres). The proposed changes to the land use designations, and the associated development that it would allow, would result in impacts to 4.13 acres of coastal sage scrub. No southern maritime chaparral habitat would be impacted.

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.¹ 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 would 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.

The subject site is located within "Zone 8," is identified as a standards area, and is located adjacent to existing Hardline Preserve areas to the northeast, southeast, and west. The 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. The HMP conservation goals for Zone 8 relevant to this site require conservation of sensitive upland habitats within the zone and maintenance of connectivity of sensitive upland habitats across the zone from southeast to northwest. The proposed development envelope avoids impacts to southern maritime chaparral habitat and minimizes impacts to coastal sage scrub habitat by siting the development on the least environmentally sensitive portion of the property. With development clustered in the north-central portion of the site, existing sensitive upland habitats will continue to provide connectivity from the southeast to the northwest across the site.

¹ [Staff Recommendation on 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.](#)

At the time of approval of the HMP, the City and the Coastal Commission recognized the Kirgis property as one of the many sites highly constrained for development due the presence of ESHA on a significant portion of the parcel. Because there was no development plan proposed, the site was approved as a “standards” area rather than a “hardline” property under the HMP. This site is subject to both zone and parcel-specific planning standards. More specifically, the Zone 8 planning standards state that development shall be limited to 25% of the Kirgis property, and development should be sited on the least environmentally sensitive portion of the site.

The applicable parcel-level development standards 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 in this section of the City. HMP Policy 7-14(b) requires 75% of the acreage to be conserved as part of the HMP Preserve, allowing development to occur on the remaining 25% of the site. In addition, development must be clustered immediately adjacent to Kelly Ranch, a property that includes the Spyglass Hills residential neighborhood located immediately north of this site.

The 25% developable area on this site totals 5.4 acres. Therefore, a development proposal could impact up to 5.4 acres of ESHA for residential development and be consistent with the standards. By clustering the development footprint adjacent to the neighboring Spyglass Hills residential neighborhood (part of the Kelly Ranch property) and over the disturbed and previously developed portion of the site (the terminus of Twain Avenue), the proposed land use redesignations will result in a development footprint that would impact only 4.13 acres of ESHA. The remaining 75% of the site will be conserved in perpetuity as part of the HMP Preserve, including approximately 69% of the coastal sage scrub onsite. Therefore, the proposed development footprint is consistent with HMP Policy 7-14(b) and with Policy 7-2.

Conclusion

Because the proposed amendment would result in impacts to ESHA (4.13 acres of coastal sage scrub), the project applicant will be required to provide mitigation consistent with the requirements of the certified Mello II LUP and HMP. The HMP calls for mitigation at a 2:1 ratio, so a total of 8.26 acres of coastal sage scrub habitat mitigation will be required associated with this development envelope. This will include a minimum of 4.13 acres of habitat creation or substantial restoration to ensure no net loss of this sensitive habitat within the coastal zone. The City’s coastal development permit requires the applicant to meet all mitigation requirements and obtain sign-off on the mitigation plan from the U.S. Fish and Wildlife Service, California Department of Fish and Wildlife and the Coastal Commission. In addition, compliance of the underlying project with certified HMP policies related to fuel modification and habitat buffers is addressed through the City’s coastal development permit.

By consolidating development on the north-central, previously disturbed portion of the site and conserving ESHA through 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 addressing the protection of environmentally sensitive habitat areas.

Residential Density

Finally, although the land use designation change will allow an increase in residential density, there will be no additional impact to ESHA due to the increased density. The proposed development footprint is substantially the same as previously approved by the Commission. As designed, the project will decrease lot sizes in order to increase density over the same area. Development will be clustered at the southern terminus of Twain Avenue and close to existing residential development to the north of the project site in an area with adequate public services. Further, the City's CEQA review for the LCP amendment found that the existing street system was designed to accommodate the additional traffic to be generated by the proposed development. 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 4.13 acres of impacts to ESHA (coastal sage scrub), 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, the City's coastal development permit will require appropriate mitigation for the project as a condition of approval. 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.

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

A. 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.

a) Purpose and Intent of the Ordinance.

The purpose and intent of the zoning amendment is to rezone the property from R-1-30,000 and OS to R-1 and OS consistent with the proposed land use designations ([Exhibit 3](#)). 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-358 provides for rezoning of the parcels from R-1-30,000 and OS to R-1 and OS on the certified LCP Zoning Map.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

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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...

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

Environmentally Sensitive Habitat Areas

As discussed in Part III.C regarding the land use 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 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 seventeen 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 (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 JRM); 4-09D (Tabata Ranch); 4-09E (Tabata 10); 1-10A (Muroya); LCP-6-CII-14-0837-2 (Daybreak Community Church); and LCP-6-CII-17-0031-3 (Poinsettia 61). 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 R-1 zone is to implement the R-4 (Residential 0-4 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 2.7 du/ac, consistent with the R-4 land use designation and with Policies 1-1 and 1-2 of the Mello II LUP.

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 complies with all HMP and LCP standards. While the land use and zoning modifications will result in impacts to 4.13 acres of sensitive habitat, the line of development has been designed to cluster development primarily on the disturbed area 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. 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.

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

The City of Carlsbad prepared and certified a Mitigated Negative Declaration (MND) on June 19, 2019 for the Ocean View Point project. The MND concluded that, with mitigation, all environmental impacts associated with the proposed Ocean View Point project (and by association this proposed LCP amendment) would be reduced to less than significant levels.

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. 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.

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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

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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-19-0145-1
- City of Carlsbad Mello II Segment LCP
- City of Carlsbad Habitat Management Plan
- Planning Commission Resolution No. 7337
- Planning Commission Resolution No. 7338
- Planning Commission Resolution No. 7339
- 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