

CALIFORNIA COASTAL COMMISSION

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W12e

ADDENDUM (Corrected)

March 8, 2022

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM W12e, CDP APPLICATION NO. 5-21-0641 FOR THE COMMISSION MEETING OF WEDNESDAY, MARCH 9, 2022.**

This addendum is designed to achieve the following objectives. First, Section I updates the record by supplementing it with correspondence that Commission staff received after the staff report was issued. Second, Section II provides responses to some of the issues raised in the recent correspondence, which responses Commission staff proposes the Commission incorporate into its findings. Finally, Section III provides some minor corrections to the staff report.

I. CORRESPONDENCE RECEIVED

On March 4, 2022, the Commission received a letter of concern and a letter in opposition to the proposed project from two different parties. On March 4, 2022 and March 5, 2022, the applicant's agent sent two emails in response to some of the concerns raised. The letters and response emails are posted on the Commission's website under the Correspondence tab for this item, as well as in the record file at the South Coast District Office in Long Beach.

II. RESPONSES TO COMMENTS

The following is added as a Response to Comments section to the staff report dated February 25, 2022 (as subsection J. on staff report page 41, thus renumbering the CEQA section as subsection K).

On March 4, 2022, the Commission received a letter in opposition to the proposed project submitted by Penny Elia on behalf of the Sierra Club Save Hobo Aliso Task Force. The correspondent asserts that the proposed mitigation is inadequate to mitigate for the anticipated impacts to habitat from fuel modification activities. As discussed in greater detail in the Section IV.D above, in previous decisions, the Commission has required higher mitigation ratios for permanent impacts to sensitive habitat. However, in this particular case, although the proposed fuel modification project is anticipated to

permanently impact sensitive habitat by reducing the habitat coverage by 50 percent indefinitely, the Commission recognizes that the proposed fuel modification is the alternative, environmentally sensitive approach to past more damaging and less effective fuel modification programs. Therefore, a mitigation ratio for habitat restoration/creation at 0.5:1 or for habitat enhancement at 1:1 ratio would be adequate to offset the anticipated impacts to ESA and would be appropriate in this case.

In addition, the correspondent asserts that the mitigation restoration is not clearly defined. The applicant has submitted a map (in draft form) of potential restoration sites to mitigate for direct impacts to very high value habitat and for potential impacts to the existing Hometown America Restoration site (see Exhibit A). This draft map is subject to further revisions as outlined in Special Condition 2.

The correspondent is concerned that the proposed program is for fuel modification commencing at 100 feet from the property line rather than 100 feet from structures. The proposed fuel modification program is not designed to go into the rear yards of individual developed properties, in this case. A separate program would be necessary to focus on those areas, which is the responsibility of the individual property owners to maintain. The applicant's agent indicates that the City provides guidance about the care of private rear yards and the importance of maintaining defensible space. The applicant's agent also indicates that the 100-foot-wide work area would not change, even if the rear yards were adequately maintained. This 100-foot-wide work area is smaller than the zone outlined in the certified LCP, which could be as wide as 270 feet.

The correspondent also asserts that the vegetation maps provided by the applicant's biologist are inaccurate. Upon confirmation of any inaccuracies/discrepancies, the maps areas would be rectified through the review required to comply with Special Condition 1.

Additionally, the correspondent alleges that there has been improper fire clearance in Hobo Canyon. In response, the applicant's agent states:

"The poorly completed clearance cited by Ms. Elia in Hobo Canyon was not a City project and no CDP application is currently pending for that site. In review of her letter, the action was taken solely by a private landowner and was not under fire department supervision. The clearance completed was not consistent with the City's Vegetation Management Treatment Protocol which guides such efforts and is on file with the Commission.

We would also respectfully suggest Ms. Elia utilize available City processes for filing of fire hazard complaints so that the City can effectively and immediately deal with these matters rather than directing such issues to the Commission. Her letter that was forwarded to us by Coastal staff today contains a fire hazard complaint and alleges inappropriate handling of a fire hazard issue by City staff. This was the first we had heard of the issue. The letter was forwarded this afternoon to our Fire Chief for investigation of the alleged inappropriate action by a City employee and review for hazard abatement."

On March 4, 2022, the Commission received a letter of concern submitted by Paul Yamazaki on behalf of Southern California Edison (SCE). Both Mr. Yamazaki and Mrs. Elia raise concerns regarding the protection of existing mitigation restoration sites. As addressed Section IV.D above and by Special Conditions 8 and 9, the applicant is required to avoid any existing mitigation restoration sites associated with SCE and the Orange

County Transportation Authority (OCTA) during fuel modification activities and, therefore, no impacts are anticipated. In addition, Special Condition 2 is clarified to prevent any confusion regarding the potential overlap of mitigation restoration areas in FMZ 11. The Commission would not credit any applicant for restoration of an already existing and active restoration site. Regarding the Hometown America Restoration Site, as shown on Exhibit 2, page 2 of the staff report depicting proposed treatment areas, the applicant is proposing fuel modification within a 66-foot by 100-foot area within the Hometown America Restoration Site in FMZ 11 on an as needed basis. Therefore, the conditions address the potential/anticipated impacts to that particular site.

II. CORRECTIONS TO STAFF REPORT

The following modifications are made to the staff report dated February 25, 2022. Language to be added is shown in underlined text, and language to be deleted is identified by ~~strikethrough~~.

a) First complete paragraph on page 3, correct as follows:

Although the proposed development will occur in sensitive habitat areas, which consist of coastal sage scrub/southern chaparral and southern maritime chaparral habitats, the proposed project minimizes adverse impacts to coastal resources, ~~and therefore is not a significant disruption of the habitat values~~, specifically by: 1) thinning vegetation rather than removing it entirely; 2) imposing a hierarchy of vegetation removal of non-native and/or dead and dying first, with removal of native vegetation in high- and very-high value habitat areas, only when fire safety goals would not otherwise be achieved; 3) requiring a qualified biologist to conduct pre-vegetation clearing biological surveys to enable flagging and avoidance of impacts to special status species, and requiring the presence of a qualified biologist during project activities; 4) implementing measures to avoid impacts to bird nests; 5) implementing erosion control measures; 6) and proposing a mitigation plan to offset direct impacts to very-high value habitat. While the project is not a use dependent upon the resource, as required by Section 30240 of the Coastal Act for uses within Environmentally Sensitive Areas (ESA) / Environmentally Sensitive Habitat Areas (ESHA), the project is necessary repair and maintenance activity to protect life and property and it has been carefully designed ~~so as not to represent a to minimize adverse impacts to coastal resources significant disruption of the habitat values in and adjacent to sensitive habitat.~~ In addition, the certified LCP, which is used as guidance, recognizes that this fuel modification may be necessary where pre-existing development abuts undeveloped open space and/or wildlands. Special conditions are recommended to ensure that the method of repair and maintenance limits impacts to Environmentally Sensitive Areas – defined by the LCP as areas that contain environmentally sensitive habitat resources as identified through an on-site biological assessment process which meets the definition of environmentally sensitive area in Section 30107.5 of the Coastal Act¹ – to only where they are required for fire protection and that the project will not significantly degrade ESA. Additionally, the applicant is proposing to mitigate for any impacts to very-high value habitat. The LCP requires fuel modification proposals situated in ESA to preserve

¹ Section 30107.5 of the Coastal Act states: “Environmentally sensitive area” means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

habitat areas within very high value habitat and, when appropriate, that mitigation measures be enacted.

b) In the Summary of Staff Recommendation on page 4, correct as follows:

...Only with mitigation to offset the anticipated impacts to very-high value habitat could the project be found consistent with the policies the certified LCP, serving as guidance, and as consistent as possible with Section 30240 of the Coastal Act.

Commission staff recommends that, after a public hearing, the Commission approve Coastal Development Permit No. 5-21-0641 with a total of ~~10~~**11 special conditions**, which address the following: **1)** submittal of final fuel modification plan; **2)** final habitat mitigation plan; **3)** habitat and sensitive species protection measures during project activities; **4)** timing and operational constraints (sensitive bird species); **5)** staging and storage of equipment; **6)** assumption of risks of development in a hazardous areas; **7)** conformance with requirements of resource agencies; **8)** collaboration with OCTA to minimize fuel modification; **9)** coordination with Southern California Edison for FMZ 11 access; ~~and~~ **10)** coordination with Hometown America and mitigate for impacts within the Hometown America Restoration Site; and **11)** acquisition of proof of the applicant's legal ability to comply with conditions and obtain permission to access the subject properties. The motion and resolution are on page 6 of this report.

c) Correct Special Condition 2 (shown in part below) on page 8 as follows:

2. Habitat Mitigation Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, a final Habitat Mitigation Plan. The final Habitat Mitigation Plan shall be prepared by a qualified biologist with experience restoring coastal sage scrub and southern maritime chaparral habitat. The final Habitat Mitigation Plan shall closely conform with the "FMZ 10 + 11 Habitat Enhancement Plan" prepared by the Laguna Canyon Foundation and dated August 17, 2021, with the exception of changes necessitated in order to avoid the Southern California Edison active restoration site, and describe in detail the activities the permittee will undertake to restore and enhance degraded habitat adjacent to FMZ 11 at an undeveloped parcel located at the northern terminus of Driftwood Drive (APN: 056-240-65), and shall include the following provisions:

...

d) Correct Special Condition 2.H (shown in part below) on page 9 as follows:

H. Planting Schedule. The final Habitat Mitigation Plan shall include a schedule for the removal of non-native invasive plants and installation of native plants in the restoration area. Implementation of the approved final Habitat Mitigation Plan shall commence as soon as possible in the fall (and shall be completed outside of gnatcatcher breeding season (February 15 – August 31)), unless written permission from the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service is obtained and provided to the Executive Director for review and approval pursuant to Special Condition 4B. The initial planting shall be completed no later than six weeks from the commencement of planting, in compliance with the final Habitat Mitigation Plan approved by the Executive Director. The permittee shall

notify the Executive Director in writing within five (5) days of the date of commencement of the implementation of the approved final Habitat Mitigation Plan.

e) Correct Special Condition 4 on page 11-12 as follows:

4. Timing and Operational Constraints - Sensitive Bird Species.

- A. To avoid adverse impacts on sensitive bird species, all project activities shall not occur during gnatcatcher breeding season between February 15 and August 31 of any year, unless written permission from the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service is obtained and provided to the Executive Director for review and approval.
- B. If fuel modification activities and/or restoration activities are authorized by the resource agencies to occur during gnatcatcher breeding season (February 15 through August 31), a qualified biologist, with experience in conducting bird surveys, shall conduct a bird nesting survey(s) within the ~~thirty (30)~~fifteen (15) days prior to commencement of project activities to detect any active raptor and/or California Department of Fish & Wildlife (CDFW) listed species and/or species of special concern nests or nesting activity within 500 feet of the project area. If an active nest or nesting activity is determined to be located within 500 feet of active fuel modification and/or restoration activities, all such activities within 500 feet from raptor nests and 300 feet from CDFW listed species and/or species of special concern, shall cease until the qualified biologist has confirmed that the detected nest(s) is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. The 500-foot limit (raptors) and/or 300-foot limit (CDFW listed species and/or species of special concern) shall be identified and protected with flagging, stakes, or animal migration-friendly fencing. Personnel shall be instructed by the qualified biologist on the sensitivity of the area and biological importance of maintaining the buffer area to allow the continuation of the natural nesting and fledgling process. The biologist shall record the results of the recommended protective measures described above to document compliance with this special condition and with applicable State and Federal laws pertaining to protection of nesting birds. These biologist's recorded results shall be submitted to the Executive Director within ~~fifteen (15)~~ seven (7) days of discovery of the nest(s), along with a description of protective measures implemented.

f) Correct Special Conditions 9 and 10 on page 13 as follows:

- 9. Southern California Edison and FMZ 11 Access.** The applicant shall coordinate with Southern California Edison to gain access to the site through the locked gate. The gate shall be locked at the conclusion of each day's activities. The applicant shall avoid fuel modification in any identified Southern California Edison pole maintenance and removal and active habitat restoration areas (Ref: CDP No. 5-17-0506) (see [Exhibit 4](#)). The applicant shall install field markers to delineate the maximum boundaries of the FMZ and the Southern California Edison pole maintenance and removal and habitat restoration area. In the event that any active restoration area within the SCE pole maintenance and removal and habitat restoration area is disturbed in the course of or as a result of the proposed work, the applicant shall coordinate with SCE to take all steps necessary, in a timely fashion, return the disturbed restoration area to the condition in which it existed prior to the disruption caused by the applicant.

10. Hometown America Restoration Site. The applicant shall collaborate with Hometown America on implementation of the Fuel Modification Plan (FMP) for areas adjacent to residences within the Hometown America Restoration Site (see [Exhibit 5](#)) within the Driftwood Property (FMZ 11). The applicant shall coordinate all activities with the Hometown America's designated land manager and shall install field markers to delineate the maximum boundaries of the FMZ, as well as the Hometown America Restoration Site boundary, which shall be verified in the field by Hometown America and provided in plans to the Executive Director. If any fuel modification activities occur in an active restoration area within the Hometown American Restoration Site that has been identified as required mitigation for impacts associated with Hometown America Mobile Home Park projects, those impacts shall be mitigated at a 1:1 ratio within the active restoration area in a timely fashion and as required by the habitat mitigation plan detailed in Special Condition 32.

g) Following Special Condition 10 on page 13, add the following special condition:

11. Proof of Legal Ability to Comply with Conditions. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittees shall demonstrate the permittees' legal ability or authority to comply with all the terms and conditions of this coastal development permit.

h) Correct third complete paragraph on page 14 as follows:

There is a drainage course that extends into FMZ 11 that meets the characteristics for a stream ~~and but it is not~~ depicted as a blue line drainage on the 2015 USGS Map Laguna Beach. However, no riparian habitat was identified within project site. Nevertheless, the project includes a 25-foot setback from the edge of any identified stream, which would include the requirement to avoid any riparian habitat.

i) Correct first complete paragraph on page 15 as follows:

The intent of the proposed fuel modification is to reduce the overall fuel load of the subject 10.51 acres by only 50 percent to maintain a defensible space adjacent to existing development. Any necessary treatments outside of the range of Fuel Modification Zones 10 and 11 would be subject to removal of only targeted non-native, invasive vegetation, or tree thinning and dead branch removal. Pursuant to **Special Condition 1**, the applicant shall undertake development in accordance with the approved fuel modification plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

j) After the first complete paragraph on page 33, delete the following:

~~A. **Inspection and Monitoring.** The permittee shall actively inspect and monitor the project site. If there are any significant changes to the landscape or site conditions beyond what is permitted, a Commission amendment to this coastal development permit is required.~~

~~The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the~~

~~Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.~~

k) Correct first complete paragraph on page 34:

Conclusion

The project is necessary to protect life and property, it has been carefully designed to minimize adverse impacts to coastal resources ~~as not to represent a significant disruption of the habitat values~~, it has been designed to prevent impacts when occurring adjacent to sensitive habitat, and it includes mitigation to offset the anticipated direct impacts to very-high value habitat. The Commission has conditioned the project to ensure that the method of repair and maintenance limits impacts to ESA overall to the maximum extent feasible ~~and that the project will not significantly degrade ESA~~. The means and methods contained in this repair and maintenance project (which leave 50% of the sensitive habitat in place), as conditioned, ~~is therefore~~ maximizes consistency ~~consistent~~ with Coastal Act Section 30240 and the policies of the certified LCP relating to the protection of natural resources.

l) Correct second paragraph on page 42:

The proposed project, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Protection measures, in the form of special conditions, to address the following: **1)** submittal of final fuel modification plan; **2)** final habitat mitigation plan; **3)** habitat and sensitive species protection measures during project activities; **4)** timing and operational constraints (sensitive bird species); **5)** staging and storage of equipment; **6)** assumption of risks of development in a hazardous areas; **7)** conformance with requirements of resource agencies; **8)** collaboration with OCTA to minimize fuel modification; **9)** coordination with Southern California Edison for FMZ 11 access; ~~and~~ **10)** coordination with Hometown America and mitigate for impacts within the Hometown America Restoration Site; and 11) acquisition of proof of the applicant's legal ability to comply with conditions and obtain permission to access the subject properties. The motion and resolution are on page 6 of this report.



FMZ10+11 ENHANCEMENT PROJECT AREA

Project Area

