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# Th15a

Date: January 19, 2023

To: **COMMISSIONERS AND INTERESTED PERSONS**

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Subject: **STAFF RECOMMENDATION ON CITY OF CARLSBAD MAJOR  
AMENDMENT NO. LCP-6-CII-22-0017-1 (CHICK-FIL-A MAP AMENDMENT)  
for Commission Meeting of February 8-10, 2022**

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## SYNOPSIS

The subject City of Carlsbad Local Coastal Program (LCP) land use plan and implementation plan amendment was submitted and filed as complete on May 11, 2022. A one-year time extension was granted on September 14, 2022. As such, the last date for Commission action on this item is September 19, 2023. 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 0.89-acre property at 5850 Avenida Encinas. The subject site, which consists of two parcels, is located east of Avenida Encinas and west of the I-5, and north of Palomar Airport Road ([Exhibit 1](#)). The land use designations would be modified from Planned Industrial (PI) to Visitor Commercial (VC), and the zoning would be modified from Planned Industrial (P-M) with Commercial/Visitor-Serving Overlay (C-V-O) to Commercial Tourist with Qualified Development and Commercial/Visitor Serving Overlays (C-T-Q) ([Exhibits 2 and 3](#)).

This LCP amendment is a project-driven amendment that would facilitate development of a new Chick-fil-A restaurant on the site. While not part of the proposed LCP amendment, the development would include demolition of an existing 10,600 sq. ft. office building and construction of a new 1-story, 3,932 sq. ft. Chick-fil-A restaurant with 41 vehicle parking spaces as well as landscaping and required utilities. ([Exhibit 4](#)).

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 and is not within the Commission's appeal's jurisdiction of the Coastal Zone.

### 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 coastal resources, shall be reviewed as well. A coastal development permit from the City of Carlsbad has already been approved by the City. It was not appealable to the Coastal Commission, therefore the permit approval would become valid on certification of this LCPA.

The key Coastal Act issue of concern is the project's potential to impact coastal access. The project site is located within the Coastal Zone and the proposed project will increase the intensity of use of the site. Visitor commercial uses, such as the restaurant, typically have increased demand compared to industrial or office uses as increased traffic or spillover of parking to public streets may adversely impact public access. It is anticipated that the proposed restaurant would add approximately 980 daily trips to the surrounding street system. However, due to this site's location ([Exhibit 1](#)), no adverse impacts on public access are anticipated. The subject site and surrounding area are not utilized by the public for coastal access parking and the proposed restaurant will provide adequate parking. While Avenida Encinas is not major coastal accessway, the project nevertheless provides transportation demand management strategies to minimize adverse impacts on traffic in the area. Therefore, no significant adverse impacts on public access are anticipated.

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.

The appropriate motions and resolutions begin on page 5. The findings for approval of the Land Use Plan Amendment as submitted begin on page 6. The findings for approval of the Implementation Plan Amendment as submitted begin on page 8.

## **BACKGROUND**

There are six geographic segments in the City's LCP. The City's LCP has a unique history in that special legislation directed the Commission to draft the initial LCP. One segment, the Village Redevelopment Area LCP, was certified in 1988 and the City has been issuing coastal development permits there since that time. On October 21, 1977, the City assumed permit jurisdiction and has been issuing coastal development permits for all of the remaining segments, except Agua Hedionda. The Agua Hedionda Lagoon LCP segment is a deferred certification area until an implementation plan for that segment is certified.

## **ADDITIONAL INFORMATION**

Further information on the City of Carlsbad LCP amendment 6-CII-22-0017-1 may be obtained from [Julia Prieto](#), Coastal Planner, at (619) 767-2370 or [SanDiegoCoast@coastal.ca.gov](mailto:SanDiegoCoast@coastal.ca.gov).

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- Exhibit 1 – Vicinity Map
- Exhibit 2 – Proposed LCP Land Use Map Changes
- Exhibit 3 – Proposed LCP Zoning Map Changes
- Exhibit 4 – Proposed Project
- Exhibit 5 – City Council Resolution No. 2022-046
- Exhibit 6 – City Council Ordinance No. CS-415

## **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 segment 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.

### **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 the Land Use Plan Amendment for the Mello II segment of the City of Carlsbad certified LCP as submitted.

### **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 the Land Use Plan Amendment for the Mello II segment of the City of Carlsbad certified LCP as submitted 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 the Implementation Program Amendment for the Mello II segment of the City of Carlsbad certified LCP as submitted.

### **STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:**

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

### **RESOLUTION TO CERTIFY IMPLEMENTATION PROGRAM AS SUBMITTED:**

The Commission hereby certifies the Implementation Program Amendment for the Mello II segment of the City of Carlsbad certified LCP as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act, and certification of the Implementation Program 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 City of Carlsbad is requesting an amendment to its certified LCP to change the land use designation of two parcels totaling 0.89-acres at 5850 Avenida Encinas, located east of Avenida Encinas and west of the I-5, from Planned Industrial (PI) to Visitor Commercial (VC). The proposed Visitor Commercial land use designation would allow for the development of visitor serving commercial facilities that serve residents, tourists, and visitors, and includes restaurants. While not part of the proposed LCP amendment, the development facilitated by this LCPA would include demolition of an existing 10,600 sq. ft. office building and construction of a new 1-story, 3,932 sq. ft. Chick-fil-A restaurant with 41 vehicle parking spaces as well as landscaping and site improvements and required utilities. The area immediately to the south of the site also has a visitor commercial designation and is currently developed with five restaurants. Since the subject site is located in the Mello II Segment of the City's Coastal Zone, the proposed LCP amendment is required to change the LCP land use designation on the site.

#### **B. CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT**

The Commission finds, pursuant to Section 30512.2b 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 or the goals of the state for the coastal zone with regards to LCP Amendment No. LCP-6-CII-22-0017-1.

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

Relevant Coastal Act policies include the following:

Section 30222 states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30250 states:

(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. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30252 states, in relevant part:

The location and amount of new development should maintain and enhance public access to the coast by ... (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, [. . .]

### **1. FINDINGS FOR APPROVAL**

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 restaurant development. As previously described, the proposed amendment

would redesignate the site from Planned Industrial (PI) to Visitor Commercial (VC) to facilitate the demolition of an existing office building and construction of a new restaurant. The primary concern associated with the proposed change to the land use designations, and the associated development that it would allow, is potential impacts on public access. Visitor commercial uses, such as the restaurant, typically have increased demand compared to industrial or office uses and increased traffic or spillover of parking to public streets may adversely impact public access. It is anticipated that the proposed restaurant would add approximately 980 daily trips to the surrounding street system. However, due to this site's location ([Exhibit 1](#)), no adverse impacts on public access are anticipated. The subject site is approximately a 0.5 mile drive from the nearest beach access and the subject site and surrounding area are not utilized by the public for coastal access parking. Further, the proposed restaurant will provide adequate parking (41 spaces proposed, 38 required). While Avenida Encinas is not a major coastal accessway, the project nevertheless provides transportation demand management strategies to minimize adverse impacts on traffic in the area. This includes a site-specific transportation demand management program to reduce employee trips, installation of a new traffic signal and crosswalks at Avenida Encinas, and the development will not include a drive-thru. The proposed project would utilize two existing driveways for access and install a new traffic signal to be shared with an existing restaurant. Additionally, two protected pedestrian crossings and bike storage for employees will be implemented. Therefore, no significant adverse impacts on public access are anticipated.

The proposed Visitor Commercial land use designation is consistent with the pattern of development in the surrounding area. Further, the change from planned industrial to visitor-serving commercial is a high priority use as established by the Coastal Act. The proposed project will not obstruct views of the coastline. There are no agricultural uses existing on the developed site nor any sensitive resources. Therefore, the Commission finds that the land use plan amendment conforms with Chapter 3 of the Coastal Act and will not adversely impact any coastal resources.

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

##### **A. AMENDMENT DESCRIPTION**

The City of Carlsbad is requesting an amendment to its certified LCP to change the zoning designation at 5850 Avenida Encinas from Planned Industrial (P-M) and Commercial/Visitor-Serving Overlay to Commercial Tourist (C-T) with Commercial/Visitor-Serving and Qualified Development Overlays (C-T-Q). The proposed zoning map change will allow for development of the proposed restaurant, provide consistency with the surrounding area, and allow for a broader range of commercial tourist uses. Since the subject site is located in the Mello II Segment of the City's Coastal Zone, the proposed LCP amendment is required to change the LCP zoning designation on the site and to ensure consistency with the proposed LCP land use designation change.

##### **B. CONFORMANCE WITH THE CERTIFIED LAND USE PLAN**



The standard of review for LCP implementation plan submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP. The Mello II segment of the City of Carlsbad's certified LUP has a number of goals and policies relevant to the proposed amendment; the most applicable LUP standards are as follows:

Policy 1-1 Allowable Land Uses (Mello II)

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

Policy 6-8 Definition of Visitor-Serving Commercial Uses, and East End of Buena Vista Lagoon

"Visitor-serving commercial uses" shall be defined to include hotels and motels, recreational facilities, restaurants and bars, amusement parks, public parks, horticultural gardens, farmers' markets, retail uses accessory to another use which is the primary use of the site, and other accessory uses customarily catering to hotel and motel guests. [...]

Policy 7-10 Parking

Parking standards set forth within the City of Carlsbad Zoning Ordinance are appropriate for the future development of various land uses.

**C. FINDINGS FOR APPROVAL**

As discussed previously, the primary Coastal Act concern raised by this project is coastal access. However, due to the site location, no adverse impacts on public access are anticipated. The proposed changes to the zoning are limited to the subject site and are necessary to ensure that the zoning designations are consistent with the land use designations. Thus, the proposed zone change from Planned Industrial (P-M) and Commercial/Visitor-Serving Overlay to Commercial Tourist (C-T) with Commercial/Visitor-Serving and Qualified Development Overlays (C-T-Q) is consistent with the proposed land use designation change from Planned Industrial (PI) to Visitor Commercial (VC). Therefore, the proposed amendment can be found consistent with and adequate to carry out the City's LUP as proposed to be amended and it can therefore 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 February 22, 2022 for the subject project. The MND concluded that, with mitigation there will not be a significant effect on the environment associated with the proposed project (and by association the proposed LCP amendment).

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