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Date: June 27, 2024

To: COMMISSIONERS AND INTERESTED PERSONS

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Subject: STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR
AMENDMENT NO. LCP-6-OMN-23-0053-4 (Otay Mesa-Nestor Community
Plan Update) for Commission Meeting of July 10, 2024

SYNOPSIS

The subject LCP land use plan and implementation plan amendment was submitted and filed as complete on November 8, 2023. A one-year time extension was granted on March 15, 2024. As such, the last date for Commission action on this item is March 22, 2025.

SUMMARY OF AMENDMENT REQUEST

The proposed amendment to the Otay Mesa-Nestor Community Plan, which serves as the City of San Diego's Land Use Plan for the Otay Mesa-Nestor community, involves two components. The first includes a general update to the Otay Mesa-Nestor Community Plan, including removal of outdated information, inclusion of new information regarding the Otay Valley Regional Park, updates to future uses at the existing Salt Ponds, as well as several policy updates and other administrative changes. The second component includes changing the land use designation on a 14.62-acre site located at 408 Hollister Street from Open Space to Medium-Density Residential, as well as changing the requirement for a comprehensive Special Study for a 407-acre area (Special Study Area or SSA) to a site-specific study to facilitate the construction of a 380-unit apartment complex over 15 buildings with 100 units for very-low and low incomes, referred to as the Bella Mar project, on one of the private lots within the Special Study Area.

The City also proposes to amend its Implementation Plan to certify a zoning designation of Residential Multiple-Unit for the Bella Mar site, which is currently in an area of deferred certification. This would result in the transfer of permitting authority for the future development of the site from the Coastal Commission to the City of San Diego, although parts of the newly certified area will be subject to Commission appeal.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending denial of the LUP amendment as submitted, then approval with nineteen suggested modifications. The proposed IP amendment is consistent with the LUP, as modified; thus, staff is recommending approval of the IP amendment as submitted.

While the Community Plan, as proposed, includes several updates, including detail about the construction of the Otay Valley Regional Park, direction for redeveloping the Salt Ponds, and several other improvements, several Coastal Act issues are not sufficiently addressed, and staff is recommending suggested modifications to update the plan based on new data and policy direction to ensure continued consistency with the Chapter 3 policies of the Coastal Act. The outstanding issues and concerns are cited below:

With regard to public access and recreation, the proposed Community Plan does not include specific regulations for continued use of the Otay Valley Regional Park, the City's Multiple Species Conservation Program preserve or the San Diego National Wildlife Refuge or how connectivity to existing and future access and recreational areas can be accommodated as part of future development. Suggested modifications ensure development proposals located adjacent to access and recreational amenities include consideration of new public amenities that enhance public access along the waterfronts adjacent to the San Diego Bay, the salt ponds, the Otay River and Nestor Creek, and that connect with existing and future transit; and signage along view and access points to identify the location of trailheads, parking, public stairways. In addition, ten new policies, when taken collectively, would protect existing recreational access and open space areas; encourage improved waterfront access and access along routes to transit stops; encourage new parks in underserved communities; enforce protection of natural resources through Open Space designations; and provide regulations for public access trails located in biological buffers, while still requiring preservation of major topographic features, sensitive habitat, and natural drainage systems.

With regard to visitor-serving uses within the community, Otay Mesa-Nestor contains one visitor serving overnight accommodation, a lower-cost motel, and a second that is temporarily closed. The Community Plan does not contain policies that would require replacement of these lower-cost rooms if redevelopment occurs. In addition, there are no policies that would prevent a new hotel development within the community from being entirely high cost or, if lower-cost rooms cannot be accommodated in the new development, require the developer to pay an in-lieu fee to financially assist in the future development of lower cost overnight accommodations elsewhere in the community or City's coastal zone. Therefore, Suggested Modification No. 10 adds language that requires: 1) no net loss of lower cost overnight accommodations; 2) new visitor-serving accommodation developments provide a range of affordability; and 3) new high-cost accommodation developments provide at least 25% of the number of proposed units as lower cost or, if this cannot feasibly be provided on-site, require mitigation off-site by contributing to the construction or funding of a new lower-cost accommodation development equal to 25% of the proposed high cost units.

With regard to Environmentally Sensitive Habitat Areas (ESHA), wetlands and water quality, the proposed Community Plan fails to provide the detail necessary to ensure adequate protection of existing sensitive resources and does not adequately promote

enhancement of these resources in the future. Several suggested modifications are recommended to address these concerns and include: prohibition of development within ESHA unless resource dependent; prohibition of development within wetlands consistent with Section 30233 of the Coastal Act; long-term protections for these resources; biological buffers; limits to development within buffers to public access only; several measures to protect water quality through development standards such as Best Management Practices (BMPs) and Low-Impact Development (LID) practices. An additional suggested modification includes several new policies that will ensure that new development preserve coastal resources from hazards and incorporate sustainable design standards such as Green Building standards and bird safe window treatments.

With regard to environmental justice, while not a standard of review for LCPs, Section 30604(h) of the Coastal Act provides that when acting on a coastal development permit, the issuing agency “may consider environmental justice, or the equitable distribution of environmental benefits,” and the community of Otay Mesa-Nestor has been identified by the California Office of Environmental Health Hazard as a disadvantaged community. However, the proposed Community Plan does not include any provisions to address environmental justice. Thus, Suggested Modification No. 15 includes housing and population demographics, as provided by the City, and Suggested Modification No. 16 adds several policies that will collectively promote the equitable distribution of coastal benefits.

With regard to tribal, cultural, archeological and paleontological resources, the certified Community Plan lacks policies that regulate development if there’s potential for discovery of tribal, cultural, archeological or paleontological resources on a site. Coastal Act Section 30244 requires that where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required. Suggested Modification No. 17 has been included that requires impacts to these resources to be avoided or minimized, promotes early consultation with tribal officials, and provides flexibility for how any identified resources are removed, restored, or protected in place.

With regard to multi-modal transportation, the proposed Community Plan lacks policy language to encourage alternative forms of public access (bike, scooter, bus, etc.), and to reduce vehicle miles traveled and greenhouse gas emissions. Suggested Modification No. 18 has been included to help advance these type of access improvements, while simultaneously including provisions that ensure modifying existing roadways to include multi-modal access will be implemented without significantly impacting the public’s ability to visit the coast.

Finally, as proposed Attachment 8, Figure 10 “Coastal Jurisdictions” Map of the Land Use Plan includes boundaries for Coastal Commission permit and appeals jurisdictions, which is not appropriate at this time, as the City does not have any post-certification maps to confirm permitting or appeals authority (ref. [Exhibit No. 7](#)). Therefore, Suggested Modification No. 19 requires the City to submit a revised exhibit that does not include these boundaries.

With regard to the proposed land use change from Open Space to Medium Density Residential to facilitate development of the Bella Mar apartments, the primary Coastal Act

concern is the site's location within the floodplain. Historically, the Commission has not been supportive of high-density residential development within the 100-year floodplain, although the Commission has approved a much less dense development in the floodplain that was capable of withstanding periodic flooding on the subject site (CDP No. 6-02-103). The certified Community Plan acknowledges that there are areas that could be potentially developed in the future within the Special Study area, even though the entire Special Study area; including the Bella Mar site, is both designated as open space and located entirely within the floodplain.

Commission staff has been working with the City and the project proponent since 2019 to address potential impacts to coastal resources, and in this case, several hydrological reports have been provided using modeling techniques that have concluded that the proposed development will be designed to avoid flood hazards, will not alter the Otay River or tributary streams, will not change the 100-year floodplain elevations or flow velocities on-site, downstream, or upstream, will not alter the hydraulic conditions of on-site or off-site sensitive resources, will not increase on-site or off-site flooding, and will not hydraulically impact coastal resources. The analysis determined that the 100-year flow rates, flow velocities, and flow volumes will remain essentially unchanged following development. The Commission's staff engineer has reviewed the provided reports and agrees with the conclusions.

Additionally, the currently certified Community Plan requires the completion of a comprehensive Special Study for a 407-acre area, prior to redevelopment of any property within the Special Study Area. The intent of this Special Study was to require additional analysis within the portion of the community that contained the most significant biological resources (the Otay River) to address biological resources, habitat value and hydrology in order to help determine appropriate land uses within the area. However, since this policy was certified, there have been several changes within the area, including acquisition of approximately 317-acres (or approximately 72% of the SSA) by the City of San Diego, San Diego Unified Port District, County of San Diego and the US Fish and Wildlife Service. These lands are now part of the Otay Valley Regional Park or preserved by the City's Multiple Species Conservation Program (MSCP) preserve or the San Diego National Wildlife Refuge (ref. [Exhibit No. 5](#)). Given this, the City of San Diego request to update the Community Plan to allow for development of the remaining privately held lands with completion of a site-specific resource analysis, which addresses potential impacts on the preserved lands as well as the surrounding areas that may be developed in the future, instead of a comprehensive study of the entire 407-acre area can be supported as proposed.

Therefore, staff is recommending approval of the proposed land use and zoning changes for this site only, because there are no identifiable impacts to coastal resources. In addition, Suggested Modification No.1 includes requirements that no development is permitted in the proposed 100-ft. wetland buffer with the exception of a 10-ft. wide public access path along the north side of the development, that any low-income units are provided equal access to all on-site amenities and no fencing is permitted that would physically separate the types of units. Only as revised through the inclusion of the proposed suggested modifications can the amendment be found consistent with the applicable policies of the Coastal Act.

The appropriate motions and resolutions begin on Page 10. The suggested modifications begin on Page 11. The findings for denial of the LUP Amendment as submitted begin on Page 28. The findings for approval of the plan, if modified, begin on Page 40. The findings for approval of the IP Amendment as submitted begin on Page 49.

ADDITIONAL INFORMATION

Further information on the City of San Diego LCP amendment No. LCP-6-OMN-23-0053 may be obtained from Toni Ross, Coastal Planner, at (619) 767-2370 or SanDiegoCoast@coastal.ca.gov.

TABLE OF CONTENTS

I. OVERVIEW	7
A. LCP HISTORY	7
B. STANDARD OF REVIEW	9
C. PUBLIC PARTICIPATION	9
II. MOTIONS AND RESOLUTIONS.....	10
III. SUGGESTED MODIFICATIONS.....	11
I. FINDINGS FOR DENIAL OF CERTIFICATION OF THE CITY OF SAN DIEGO OTAY MESA-NESTOR LAND USE PLAN AMENDMENT, AS SUBMITTED, AND APPROVAL IF MODIFIED	28
A. AMENDMENT DESCRIPTION	28
B. CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT.....	29
C. CONFORMITY OF THE CITY OF SAN DIEGO OTAY MESA-NESTOR LAND USE PLAN WITH CHAPTER 3.....	29
II. FINDINGS FOR APPROVAL OF THE CITY OF SAN DIEGO IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED.....	50
A. AMENDMENT DESCRIPTION	50
B. CONFORMANCE WITH THE CERTIFIED LAND USE PLAN	50
III. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).....	55

EXHIBITS

[Exhibit 1 – Community Plan Area](#)

[Exhibit 2 – Revised Otay Mesa-Nestor Community Plan](#)

[Exhibit 3 – Resolution No. 315071](#)

[Exhibit 4 – Ordinance Nos. 21718, 21719](#)

[Exhibit 5 – Map of Special Study Area and Current Uses](#)

[Exhibit 6 – Bella Mar Site Development Plan](#)

[Exhibit 7 – Proposed Figure 10 “Coastal Jurisdictions” Map](#)

I. OVERVIEW

A. LCP HISTORY

The City of San Diego has a long history of involvement with the community planning process, and in 1977 requested that the Coastal Commission permit segmentation of its LUP into twelve parts in order to conform, to the maximum extent feasible, with the City's various community plan boundaries. In the intervening years, the City has intermittently submitted all of its LUP segments, which are all presently certified, in whole or in part.

When the Commission approved segmentation of the LUP, it found that the implementation phase of the City's LCP would represent a single unifying element. This was achieved in January 1988, and the City of San Diego assumed permit authority on October 17, 1988 for the majority of its coastal zone. Several isolated areas of deferred certification remained at that time, but some have since been certified as LCP amendments. Other areas of deferred certification still remain today and will be acted on by the Coastal Commission in the future.

The Otay Mesa-Nestor community is one of the City of San Diego's twelve LCP segments in the coastal zone. The Otay Mesa-Nestor Community is located within the southern region of the City, in what is generally referred to as the South Bay area. It is bounded on the north by the city of Chula Vista, and on the south by the Tijuana River Valley and the San Ysidro Communities. The City of Imperial Beach and the Salt Ponds (a portion of the Community Plan Area) are on the west and the Otay Mesa community on the east. The community totals approximately 5,240 acres of which approximately 32% percent, or 1640-acres, is located within the coastal zone.

The Otay Mesa-Nestor community is somewhat unique when compared to other communities in the coastal zone as, with the exception of the Salt Ponds which are located immediately adjacent to San Diego Bay, it is primarily removed from the shoreline by several miles. However, it possesses a significant river course (the Otay River) which drains to the San Diego Bay and is the basis for its inclusion within the coastal zone. Other environmental features include Nestor Creek and several hundred acres of salt ponds associated with the Western Salt Company's salt production operation in south San Diego Bay. Associated resources include wetlands, riparian and wildlife habitat. The community is comprised of essentially three neighborhoods known as Otay Mesa, Nestor and Palm City. The most significant issues are primarily focused on the environmental and wildlife resources of the river valley, protection of wetlands and floodplain development.

BACKGROUND

The Otay Mesa-Nestor Community Plan (LUP) is part of the City of San Diego's certified LCP, the latter of which consists of 12 segments, corresponding to community plan boundaries, with separate land use plans submitted and certified for each segment. The Implementing Ordinances were submitted and certified with suggested modifications, first in March of 1984, and again in January of 1988. Subsequent to the 1988 action on the implementation plan, the City of San Diego incorporated the suggested modifications and assumed permit authority for the majority of its coastal zone on October 17, 1988. Isolated areas of deferred certification remain. At the time, the area in the Otay Mesa-Nestor

community was deferred for certification to accommodate the preparation of a specific or comprehensive plan for the river valley. Historically, development was proposed on parcels adjacent to the river in the floodplain that would have resulted in significant impacts to environmentally sensitive resources, including filling of wetlands as well as channelization of the river. At that time, the Commission directed property owners and the City to develop a comprehensive plan for the Otay River Valley that would take into consideration protection of existing environmental resources. The Commission made it clear that, if applicants desired to develop parcels in these sensitive areas, a specific plan would first need to be completed in order to avoid a piecemeal approach to development on parcels that could potentially adversely affect coastal resources.

In 1997, the Community Plan underwent a comprehensive update, which expanded the Community Plan to include 740-acre of salt ponds located in the northwestern portion of the Otay Mesa-Nestor Community and also the salt ponds within the area of deferred certification, adding the salt ponds to the area included in the future comprehensive plan, or Special Study Area. This Special Study Area functions as an overlay designation for that portion of the river valley that is presently an area of deferred certification. Several policies were certified into the Community Plan that addressed the Special Study Area. Primarily among the requirements, is that prior to any specific development request, the City and the collective property owners would have to provide an exhaustive review of the area that would ensure that the most sensitive areas were protected, and that lands suitable for use as community park lands, would be prioritized to be included in the Otay River Regional Park.

With regard to the Bella Mar site, in 1975 the Commission denied (ref. CDP No. F2334, Appeal No. 116-75) a request to construct a 495-space RV park. At that time, the Commission found that the RV use was inconsistent with the agricultural use of the site and would adversely affect the potential for continued agricultural use of the site. The site was not being used for agriculture at the time, but the applicant stated that the site was used as a dairy farm and for livestock grazing before the site was purchased in 1967. At that time, the Commission was concerned that permitting a large RV park on historically agricultural land would set an adverse precedent for other undeveloped land in the area being used for agricultural at that time. However, the permit application record indicated that prime agricultural soils did not exist on the subject site and, although previously used for dairy farming and livestock grazing, these operations subsequently became infeasible due to saltwater intrusion into the aquifer that supplied water for the farm. The applicants indicated that the site was being used for go-cart racing since purchase in 1967, and given this, the use of the lands for non-agricultural purposes pre-dated the Coastal Act.

In 2002, the property owner again proposed an RV Park on the site (ref. CDP No. 6-02-103). This time, the Commission approved a revised project that included construction of a 213 space RV park. At that time, the Commission found that the project was consistent with the Coastal Act given that 1) the site did not contain prime agricultural soils; 2) the proposed development did not result in channelization of the Otay River or substantial alteration of streambeds; 3) no armoring of the banks of the Otay River were proposed or needed; and, 4) that the proposed structures were all designed to be elevated two feet above the level of a 100-year flood on a pier foundation, so that the construction of off-site flood protective works would not be required. Conditions of approval included several

conditions requiring the establishment of a 100-foot biological buffer, planting native plants within the newly established buffer, a deed restriction prohibiting development within the buffer, and fencing to separate the buffer from the proposed development. Other conditions protected water quality on the site and ensured that the RV park would be used by visitors and would not allow long-term or permanent use of the RV sites. In 2006 the permit was amended to allow 1) reduction in the number of recreational vehicle (RV) sites from 213 to 142; 2) rearrangement of the clubhouse/office complex to facilitate entry; 3) internal circulation improvements; 4) site layout updates; and 5) reduction of the size of clubhouse/office complex by 500 sq. ft. These changes were approved by the Commission in December of 2006. However, the permit was never issued, and the approval has since expired.

The site remains undeveloped, with the exception of a remnant concrete pad. The site is mowed on a regular basis and currently contains very little sensitive biological resources, with the exception of wetland habitat located along and directly adjacent to the Otay River.

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 of San Diego 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. MOTIONS 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 City of San Diego as submitted.

STAFF RECOMMENDATION OF DENIAL OF CERTIFICATION:

Staff recommends a **NO** vote on the motion. Failure of this motion will result in denial 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 DENY CERTIFICATION OF LAND USE PLAN AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of the Land Use Plan Amendment for the City of San Diego as submitted and finds for the reasons discussed below that the submitted Land Use Plan Amendment fails to meet the requirements of and does not conform to the policies of Chapter 3 of the California Coastal Act. Certification of the plan would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures that would substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

2. MOTION:

I move that the Commission certify the Land Use Plan Amendment for the City of San Diego as submitted if modified pursuant to the staff recommendation.

STAFF RECOMMENDATION: CERTIFICATION IF MODIFIED AS SUGGESTED:

Staff recommends a YES vote on the motion. Passage of the motion will result in certification with suggested modifications of the submitted land use plan amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

3. MOTION:

I move that the Commission reject the Implementation Program Amendment for the City of San Diego 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 AMENDMENT AS SUBMITTED:

The Commission hereby certifies the Implementation Program Amendment for the City of San Diego certified LCP as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended, and certification of the Implementation Program Amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

III. SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed Land Use Plan be adopted. The underlined sections represent language that the Commission suggests be added, and the ~~struck-out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted.

1. Revise Page 128, "Appendix J Bella Mar Community Plan Amendment", to include the following after the 4th full paragraph:

Future Development of the Bella Mar Site:

1. Incorporate a biological buffer from the outer edge of the riparian canopy 100 feet in width consistent with Environmentally Sensitive Lands regulations, and subject to the following:

a. Vegetate with native habitat, endemic to the area, and include a mix of Coastal Sage Scrub habitat and native grasses within the biological buffer.

b. Maintain the vegetation within the biological buffer consistent with the Environmentally Sensitive Lands regulations and the Biological Guidelines in the Land Development Code.

2. Include a contiguous public pedestrian and bicycle access trail which can be within the uppermost ten-foot portion of the biological buffer located along the north side of the Bella Mar site and adjacent to the Otay Valley Regional Park.

a. Provide public access along the trail.

b. Include interpretive/educational naturel signage along the trail.

3. Ensure that affordable residential homes included in the development have equal access to the open space areas, the Otay River, and onsite amenities as the market rate homes.

4. Ensure that the affordable residential homes are not separated from the market rate homes by any physical barriers, such as gates, fencing, etc.

2. Revise Page 30, Topic1a Otay Regional Park - the first complete paragraph, as follows:

Mace Street and Date Court Sites

~~Two sites located on the north side of the river adjacent to Chula Vista, between the termini of Mace Street and Date Court, are designated Industrial (one-acre) and Low-Density Residential (four acres), respectively. The wetland drainage area, running north-south from Chula Vista to the Otay Valley between these sites, should be maintained in a natural condition as development occurs. Filling or other alteration of this area to provide access between the two sites should not be permitted~~

1. Maintain the wetland drainage area, running north-south from Chula Vista to the Otay Valley between these sites in a natural condition as development occurs.

2. Include mitigation to lessen the environmental impact of any approved changes to the wetland.

3. Do not allow the filling or other alteration of wetlands to provide access between the two sites.

3. Revise Page 31, Topic1a Otay Regional Park - Zoning Policy No. 5, as follows:

~~5. Ensure that the Ddevelopment of privately owned sites should complies with the Guidelines stated below.~~

4. Revise Page 93, "Criteria for Preparation of the Site-Specific Special Study Reports, as follows:

A. Ensure that Site Specific Special Study Reports for land use proposals ~~should~~ include the following:

[...]

~~6. Where appropriate, contain cCriteria for provision, preservation and enhancement of public access, circulation, view-points, and view corridors. Consider provision of these public amenities particularly along the waterfronts adjacent to the San Diego Bay, the salt ponds, the Otay River and Nestor Creek.~~

7. Provide public amenities that enhance public access along the waterfronts adjacent to the San Diego Bay, the salt ponds, the Otay River and Nestor Creek, and that connect with existing and future transit, where feasible.

~~87. Contain g~~ General design criteria, and criteria for the development of individual projects, addressing site design, architecture, landscaping, public amenities, and signage.

~~98.~~ Be in conformance with applicable local, state, and federal regulations and policies.

B. Ensure that Site Specific Special Study Reports for community plan amendments for proposed developments should also including the following:

5. Revise Page 94, Policy No. 3, as follows:

3. Provision of a continuous connection between the Otay Valley, the Salt works, and San Diego Bay. ~~Where necessary to maintain an important existing connectivity,~~ Ensure that the Special Study Report should incorporate a habitat element in a design and alignment which respects the value and function of that connectivity where necessary to maintain an important existing connectivity.

6. Revise Page 109, View and Access Points, as follows:

- ~~Provide v~~Viewpoints should be developed with seating and dark-sky friendly lighting consistent with the Biological Guidelines in the Land Development Manual and the City's Outdoor Lighting Regulations.
- ~~Place signage should be provided~~ at access points indicating the location of parking areas, trailheads, public stairways, and public parks and open spaces, as appropriate.

Revisions to Appendix H "Local Coastal Program"

7. Revise Page V, Table of Contents as follows:

Appendix H – Local Coastal Program – Supplemental Land Use Plan Policies Applicable within the Coastal Zone

8. Revise the Title on Page 121, as follows:

Appendix H – Local Coastal Program – Supplemental Land Use Plan Policies Applicable within the Coastal Zone

9. Add the following header and LUP policies immediately following the first paragraph on Page 118:

Public Access and Recreation

1. Protect recreation and access opportunities at existing public parks and where feasible, enhance as an important coastal resource. Maintain no-cost parking fees at public parks and maximize hours of use to the extent feasible, to maximize public access and recreation opportunities.
2. Improve waterfront access, linkages and recreational opportunities via a system of public plazas, bike paths, and parks that increase connectivity and improve public access to existing parks and public facilities.
3. Maintain the existing open space, and collaborate with the wildlife agencies, environmental groups and the public to ensure adequate conservation for sensitive biological resources.
4. Maintain existing parks and provide additional park and recreation opportunities consistent with General Plan and Park Master Plan standards.
5. Provide a system of population-based parks to meet the community's needs for recreation.
6. Preserve the natural resources of the community through the appropriate designation and use of open space.
7. Preserve major topographic features and biological resources as undeveloped open space.
8. Establish an open space system that will utilize the terrain and natural drainage system to guide the form of urban development, enhance neighborhood identity and separate incompatible land uses.
9. Improve the pedestrian environment adjacent and along routes to transit stops and stations through the installation and maintenance of signs, shielded downward lighting, crosswalks, and other appropriate measures.
10. Trails in Biological Buffers. Ensure improvements to construct public access within the biological buffer meet the following:
 - a. Ensure that construction of new trails or pathways is consistent with the preservation goals for the adjacent habitat, and that appropriate measures are taken for physical separation from sensitive areas.
 - b. Ensure trails are limited to the upper half of the buffer closest to the development.
 - c. Utilize non-mechanized equipment for trail construction and maintenance for new or formalized trails located adjacent to or within biological buffers.
 - d. Construct trailheads with natural materials.
 - e. Ensure that lighting for the trail or pathway does not spillover into the buffer or habitat areas.

10. Add the following LUP policies within the “Public Access and Recreation” section of Appendix H:

11. Lower-cost overnight accommodations, defined as overnight accommodations with an annual average daily room rate equal to or less than 75% of the annual statewide average daily room rate, shall be protected and maintained.

a. The City shall proactively work with operators of lower-cost overnight accommodations to maintain and renovate existing properties.

b. Lower-cost overnight accommodations shall not be removed or converted unless replaced at a 1:1 ratio with units comparable in function, amenities, location, and cost to the public.

c. If replacement of lower- or moderate-cost units on-site is determined to be infeasible pursuant to a feasibility analysis, then the new development shall provide lower-cost units elsewhere within the City’s Coastal Zone

d. Encourage the addition of overnight accommodations particularly serving the low/moderate cost range in the community. Moderate-cost overnight accommodations are defined as overnight accommodations with an annual average daily room rate between 75% and 125% of the statewide average daily room rate.

12. Encourage the rehabilitation of existing visitor accommodation uses, particularly for low/moderate cost accommodations.

13. New hotel and motel development within the City shall provide a range of rooms in order to serve all income ranges.

a. Priority shall be given to developments that include no-cost or lower-cost recreational amenities open to overnight guests and the general public, especially coastal-dependent recreational opportunities.

b. New high-cost overnight accommodations shall provide at least 25% of the proposed units as lower-cost accommodations on-site. High-cost overnight accommodations are defined as overnight accommodations with an annual average daily room rate equal to or greater than 125% of the annual statewide average daily room rate.

c. If provision of lower-cost units on-site is determined to be infeasible pursuant to a feasibility analysis, then the new development shall provide lower-cost units elsewhere within the City’s Coastal Zone.

d. If provision of lower-cost units off-site in the City’s Coastal Zone is determined to be infeasible pursuant to a feasibility analysis, then the new development shall provide an equivalent amount of lower-cost units elsewhere within the San Diego County Coastal Zone.

e. If it is determined that the project cannot feasibly provide lower-cost units on or offsite, in-lieu fees shall be required.

f. An in-lieu mitigation fee based on approximate construction costs per room, adjusted for inflation using a building cost index as needed, plus land cost

square footage shall be required. Construction costs shall be based on approximate hard and soft costs of building at least 25% of the proposed units as lower-cost accommodations on-site or shall be based on a comparable per-room construction cost estimate. Land cost calculations shall be based on the average square footage of commercial land sales in the City over the past five years. g. The fee shall be used for construction of new lower-cost hotel rooms or other inherently lower-cost accommodations (e.g., motels, hostels, campgrounds, cabins) within the coastal zone in the City.

- h. All in-lieu fee payments shall be deposited into an interest-bearing account, to be established and managed by the State Coastal Conservancy, or a similar entity approved by the Executive Director of the California Coastal Commission.
- i. Funds may be used for activities including land acquisition, construction, permitting, or renovation that will result in the provision of additional lower-cost overnight visitor accommodations.
- j. If any portion of the in-lieu fee remains seven years after the date of deposit into the interest-bearing account, the funds may be used to provide lower-cost overnight accommodations outside of the City, within the San Diego County Coastal Zone.

11. Add the following LUP policy within the “Public Access and Recreation” section of Appendix H:

14. Provide publicly accessible streets for vehicular, bicycle and pedestrian access for new residential development within ½ mile of the San Diego Bay, the Salt Ponds, the Otay River and Nestor Creek and the Tijuana River Valley.

- a. Provide public on-street parking on all public streets throughout the entire residential development unless determined by the City Engineer to be infeasible.
- b. Do not allow private entrance gates and private streets.
- c. Do not allow public entry controls (e.g. gates, gate/guard houses, guards, signage, etc.) and restriction on use by the general public (e.g. preferential parking districts, resident-only parking periods/permits, etc.) associated with any streets or parking areas.

12. Add the following header and LUP policies, immediately following the new “Public Access and Recreation” section:

Environmentally Sensitive Habitat Areas

The Otay Mesa-Nestor Community contains significant coastal resources designated as environmentally sensitive habitat areas protected by the Coastal Act.

Environmentally Sensitive Habitat Areas (ESHA) are defined as 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 within the Coastal Zone.

1. Protect Environmentally Sensitive Habitat Areas against any significant disruption of habitat values and only those uses dependent on those resources shall be allowed within those areas.
2. Design and site development in areas adjacent to environmentally sensitive habitat areas to prevent impacts that would significantly degrade those areas.
3. Design and site development in areas adjacent to environmentally sensitive habitat areas to be compatible with the continuance of environmentally sensitive habitat and recreation areas.
4. Ensure future development conforms with the Environmentally Sensitive Lands regulations and Biology Guidelines and Coastal Bluffs and Beaches Manual for preservation, acquisition, restoration, management, and monitoring of biological resources and environmentally sensitive habitat areas over time, in conjunction with up-to-date biological surveys that include an evaluation of vulnerability to sea level rise, where appropriate, and are subject to the following:
 - a. Ensure new development on lands meeting the definition of Environmentally Sensitive Habitat Areas conforms with the Environmentally Sensitive Lands regulations.
 - b. Allow only uses dependent on biological resources that do not have any significant disruption of habitat values in Environmentally Sensitive Habitat Areas.
 - c. Include a site-specific determination as to whether the on-site resources constitute Environmentally Sensitive Habitat Areas, as part of the biological assessment addressed in the Environmentally Sensitive Lands regulations.
 - d. Ensure new development provides open space protection as a component of new development if on-site biological resources are determined to constitute Environmentally Sensitive Habitat areas. This could include, but not be limited to amending the land use designation to open space, rezoning to an open space zone, or a covenant of easement recorded against title of the property.
 - e. Locate and design development adjacent to Environmentally Sensitive Habitat Areas and parks and recreation areas to prevent impacts to biological resources which would significantly degrade those areas.
 - f. Locate and design development adjacent to Environmentally Sensitive Habitat Areas and parks and recreation areas be compatible with the continuance of those habitat and recreation areas.
5. Minimize and evaluate the use of night lighting along the shoreline and adjacent to sensitive habitat areas, consistent with Multiple Habitat Planning Area Adjacency Guidelines and the Environmentally Sensitive Lands and Outdoor Lighting regulations within the Land Development Code.
6. Design lighting to be low intensity, downward-facing, and shielded that is dark-sky friendly adjacent to sensitive habitat areas.

7. Work cooperatively with development applicants and property owners to preserve and manage vernal pools in accordance with the Vernal Pool Habitat Conservation Plan.
 - a. Preserve and protect vernal pool habitat from vehicular or other human-caused damage, encroachment in their watershed areas, and urban runoff.
 - b. Avoid encroachment into wetlands, including vernal pools.
8. Limit development in steep hillside areas to minimize potential impacts on native plant and animal species and protect native habitats.
9. Implement the Environmentally Sensitive Lands regulations in the Land Development Code related to biological resources and steep hillsides for all new development to generally minimize impacts on native plant and animal species.
10. Design developments to minimize grading and relate to the existing topography and natural features.
11. Work with development applicants and property owners to ensure that buffer areas are sufficient to protect Environmentally Sensitive Habitat Areas resources by maintaining a buffer zone generally 100 feet in width, or as designated by the Coastal Commission, and are consistent with the Environmentally Sensitive Lands regulations in the Land Development Code, to ensure that development conforms to the following:
 - a. Ensure that development does not include any grading, or alteration, including trimming or clearing of native vegetation, in any biological buffer area, except for recreational trails, public pathways, fences, and similar improvements necessary to protect sensitive resources, and are limited to the upper half of the buffer closest to the development.
 - b. Ensure buffer areas extend from the outer edge of the tree or shrub canopy of Environmentally Sensitive Habitat Areas.
 - c. Consider buffer zones less than 100 feet in width only if the applicant demonstrates that a smaller buffer will sufficiently protect the environmentally sensitive habitat areas through a site-specific study that determines a smaller buffer would provide adequate protection. In such cases, the California Department of Fish and Wildlife and/or the United States Fish and Wildlife Service must be consulted and agree that a reduced buffer is appropriate, and the City must find that the development could not be feasibly constructed without a reduced buffer. In no case shall the buffer be less than 50-foot wide.
 - d. Ensure that any area that may have contained Environmentally Sensitive Habitat Areas shall not be deprived of protection as Environmentally Sensitive Habitat Areas, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.

13. Add the following header and LUP policies immediately following the newly added ESHA section:

Wetlands and Water Quality

1. Ensure that all new private development adjacent to wetlands, floodplains, vernal pools, and other sensitive resources is designed to minimize or avoid adverse effects to the resources.

2. Ensure development restores hydrologic features such as stream corridors, drainage swales, topographic depression, groundwater recharge areas, floodplains, and wetlands, where appropriate.

3. Ensure long term sustainability of the unique ecosystems in the Tijuana, Nestor and Otay River valley areas and surrounding communities, including all soil, water, air, and biological components that interact to form healthy functioning ecosystems.

4. Protect, preserve, and enhance the variety of natural features within the Otay Mesa-Nestor Community Plan area including the floodplain, the open waters of the lagoon and river, wetlands, marshlands and uplands.

5. Design the Otay River corridor as a natural-appearing waterway with rehabilitation, revegetation, and/or preservation of native wetland habitats. Preserve and restore natural environmental features within the floodway and in areas beyond the floodway boundary to maintain and enhance the habitat and aesthetic values of the creek.

6. Ensure permitted uses in wetlands are limited to those in the Environmentally Sensitive Lands regulations in the Land Development Code.

7. Ensure new development does not encroach into adjacent wetlands, floodplains, vernal pools, and other sensitive resources.

8. Work with development applicants to ensure that new development is designed to avoid, then minimize adverse effects to sensitive resources, avoid-encroaching into adjacent wetlands, floodplains, vernal pools and other sensitive resources, and maintain a 100-foot buffer from wetlands and sensitive resources consistent with the Biology Guidelines and Environmentally Sensitive Lands regulations in the Land Development Code.

9. Work with development applicants and property owners to ensure that buffer areas are sufficient to protect wetlands by maintaining a buffer zone generally 100 feet in width, or as designated by the Coastal Commission, and are consistent with the Environmentally Sensitive Lands regulations in the Land Development Code, and shall be subject to the following:

a. Ensure that development does not include any grading, or alteration, including trimming or clearing of native vegetation, in any biological buffer area, except for recreational trails, public pathways, fences, and similar improvements necessary to

protect sensitive resources, and are limited to the upper half of the buffer closest to the development.

b. Ensure buffer areas extend from the outer edge of the riparian canopy of any wetland area.

c. Consider buffer zones less than 100 feet in width only if the applicant:

i. Demonstrates that a smaller buffer will sufficiently protect the resources of the wetland through a site-specific study that determines a smaller buffer would provide adequate protection.

ii. Consults with, the California Department of Fish and Wildlife and/or the United States Fish and Wildlife Service to ensure that both agencies agree that a reduced buffer is appropriate.

iii. Provides sufficient analysis to demonstrate that the development could not be feasibly constructed without a reduced buffer.

iv. Ensures that the buffer is not less than 50-feet wide.

d. Ensure that any area that may have contained wetlands are not deprived of protection, on the basis that the wetlands have been illegally removed or degraded.

10. Incorporate water quality protection measures on new development projects in conformance with the Storm Water Standards Manual in the Land Development Code.

11. Encourage the use of permeable landscaping for yards and driveways in new private and public construction projects.

12. Ensure all stormwater and urban run-off drainage into resource-based parks or open space lands are captured, filtered, or treated before entering the area.

13. Encourage pollution control measures to promote the elimination of pollutant sources, and the proper collection and disposal of pollutants at the source, rather than allowing them to enter the storm drain system and receiving waters.

14. Maintain storm drain discharge systems to prevent erosion and improve water quality by adequately controlling flow and providing filtration.

15. Encourage private property owners to design or retrofit landscaped or impervious areas to better capture stormwater runoff, and repair and maintain drainage outfalls and brow ditches that discharge directly to or are within open space lands.

16. Integrate stormwater Best Management Practices (BMPs) on-site to minimize impacts from stormwater flow as follows:

a. Encourage use of intensive and extensive green roofs and water collection devices, such as cisterns and rain barrels, to capture rainwater from buildings for re-use.

b. Use downspouts to discharge into areas that can effectively reduce direct flows of rainwater from buildings to the stormwater drainage system.

c. Minimize on-site impermeable surfaces, such as concrete and asphalt, and encourage use of permeable pavers, porous asphalt, reinforced grass pavement (turf-crete), or cobble-stone block pavement to effectively detain and infiltrate more run-off on-site.

17. Encourage Low-Impact Development (LID) practices such as bioretention, porous paving, and green roofs, that slow runoff and absorb pollutants from roofs, parking areas, and other urban surfaces.

a. Incorporate bioswales or other appropriate LID design practices where sufficient public rights-of-way and other conditions allow throughout the community.

b. Prioritize efforts to capture stormwater before it enters canyons or natural open spaces.

18. Do not allow synthetic rubber surfacing products made from waste vehicle tires or other types of synthetic rubber, as well as the use of artificial turf in the construction of or improvements to parks, playgrounds, schools and public pathways and trails.

14. Add the following header immediately following the new Wetlands/Water Quality Section:

New Development

1. Ensure that development in the Coastal Zone conforms with Section 30253 of the Coastal Act as follows:

a. Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

b. Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

c. Apply requirements imposed by the Air Pollution Control District or the State Air Resources Board consistently to development.

d. Minimize energy consumption and vehicle miles traveled.

e. Protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses, where appropriate.

2. Implement the Environmentally Sensitive Lands regulations in the Land Development Code and the Biology Guidelines and Coastal Bluffs and Beaches Guidelines in the Land Development Code Manual related to biological resources and coastal habitat for all development, as applicable.

3. Encourage the use of special design and window treatments to improve the degree to which developments are bird-safe. Green design that facilitates bird safety includes but is not limited to reduction of reflectivity and transparency in glass, the avoidance of light pollution, reduced disturbance to natural landscapes and biological systems, and lowered energy use.
 4. Encourage development to meet the requirements of the US Green Building Council (USGBC) Leadership in Energy and Environmental Design Program® (LEED®) certification, or equivalent CALGreen standards.
 5. Design buildings to reflect the prevalent pattern and rhythm of spacing between structures, and the bulk and scale of the surrounding neighborhood's character.
 6. Brush Management. Minimize flammable vegetation and implement brush management policies consistent with the following specific standards:
 - a. Locate structures so that Zone One brush management (minimum width of 35 feet) is entirely within the area designated for development and outside open space and environmentally sensitive lands. Increase the width of Zone One when feasible to reduce the width of Zone Two and impacts to native vegetation.
 - b. Consider allowing Zone Two brush management (selective clearing to maximum width of 65 feet) in open space when subject to an approved site-specific brush management plan acceptable to the Fire Marshal that avoids significant disruption of habitat values to the maximum extent possible and where appropriate.
 - i. Implement measures such as replacing cleared or thinned native vegetation with fire-resistant native vegetation that does not require fuel modification and is compatible with the existing habitat.
 - ii. Maintain at least 50 percent of the existing ground cover of native vegetation when feasible, to avoid significant disruption.
 - iii. Ensure that Zone Two brush management is not allowed within ESHA, wetlands, or habitat buffers in the coastal zone.
15. Insert the following as Appendix 2 – Housing and Population Demographics:

Appendix 2 Housing and Population Demographics

Review of housing and population demographics for Otay Mesa-Nestor in comparison to the City as a whole shows:

- Households in Otay Mesa-Nestor (persons per household) are larger, and the median household size in Otay Mesa-Nestor is larger than the those in the City as a whole as shown in Table 1.
- The larger households in Otay Mesa-Nestor generally live on less income than those in the City as a whole, with the median household income in Otay Mesa-Nestor being

approximately 29 percent less and forecasted to decrease to 21 percent as shown in Table 2.

• Otay Mesa is forecasted to add more homes, but have a reduction in population by 2050 as household size decreases as shown in Table 3.

• The population in Otay Mesa-Nestor is primarily of Latin or Hispanic descent and this will continue in the future compared to the City as a whole as shown in Table 4.

Table 1
Median Household Size and Income, and Age Comparisons
Otay Mesa-Nestor and City of San Diego for the Year 2022

<u>Household Size</u>		<u>Median Household Income</u>	<u>Median Age</u>
Otay Mesa-Nestor	3.56	\$69,914	36.8
City of San Diego	2.54	\$98,835	36.6

Source: SANDAG, 2022 Population and Housing Estimates

Table 2
Median Household Size and Income, and Age Comparisons
Otay Mesa-Nestor and City of San Diego for the Year 2050

<u>Household Size</u>		<u>Median Household Income</u>	<u>Median Age</u>
Otay Mesa-Nestor	2.78	\$59,400	40.3
City of San Diego	2.46	\$75,200	41.5

Source: SANDAG, Series 14 Regional Growth Forecast

Table 3
Otay Mesa-Nestor Potential Development

<u>Existing (2022)</u>		<u>Future Change</u>	<u>Horizontal Total (2050)</u>
Housing Population	61,074	-9,922	51,152
Housing Units	17,606	1,939	19,545

Source: SANDAG, Series 14 Regional Growth Forecast and SANDAG, Population and Housing Estimates (2022)

Table 4
Population by Race and Hispanic Origin
Otay Mesa-Nestor and City of San Diego for the Year 2050

<u>Otay Mesa-Nestor</u>		<u>City of San Diego</u>
Hispanic	70.5%	33.9%
Not Hispanic or Latino		
White	10.6%	30.4%
Black	2.8%	5.0%
American Indian or Alaska Native	0.8%	.06%
Asian	11.2%	24.9%
Hawaiian or Pacific Islander	0.4	0.3%
Other	0.1	0.3%
Two or More Races	3.6%	4.6%

Source: SANDAG, Series 14 Regional Growth Forecast

16. Insert the following as Appendix 3 – Environmental Justice:

Appendix 3 Environmental Justice

Environmental justice is defined by the State of California as “the fair treatment and meaningful involvement of people of all races, cultures, and income levels and national origins, with respect to the development, adoption, implementation and enforcement of environmental laws, regulations, and policies.” Environmental justice includes, but is not limited to, all of the following:

- The availability of a healthy environment for all people.
- The deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that pollution, so that the effects of the pollution are not disproportionately borne by those populations and communities.
- Governmental entities engaging and providing technical assistance to populations and communities most impacted by pollution to promote their meaningful participation in all phases of the environmental and land use decision making process.
- At a minimum, the meaningful consideration of recommendations from populations and communities most impacted by pollution into environmental and land use decisions.

Environmental justice ensures everyone has equal access to, and meaningful participation in, the decision-making process to have a healthy environment in which to live, learn, and work. The built environment plays a critical role in public health and environmental justice. The Community Plan can influence conditions that affect the community’s health. For example, the Plan can affect how often people walk, ride a bike, drive a car, or take public transportation; their access to healthy food; and the quality of their air and water. The section aims to summarize the elements of the Community Plan that address environmental justice concerns with policy to improve the living conditions and foster better health - both physical and mental - and overall well being for Otay Mesa-Nestor residents and employees.

In 2023, the California Office of Environmental Health Hazard Assessment identified Otay Nestor-Mesa as a disadvantaged community having low to moderate level of air pollution as shown on the state’s CalEnviroScreen¹ mapping tool. The California Air Resources Board has identified Otay Nestor-Mesa as a low-income community, which is generally defined as census tracts with median household incomes at or below 80 percent of the statewide median income, as shown on California’s Climate Investments Priority Populations map². The City of San Diego also identified Otay Nestor-Mesa as a neighborhood with low to moderate access to opportunity based on environmental,

health, housing, mobility, and socioeconomic indicators as shown on the City's Climate Equity Index³.

¹ The latest CalEnviroScreen map can be obtained from the California Office of Environmental Health Hazard Assessment.

² The latest California Climate Investments Priority Population map can be obtained from the California Air Resources Board.

³ The latest Climate Equity Index can be obtained from the City of San Diego Sustainability and Mobility Department. Also, CalEnviro 4.0 can be mapped as well as the CalEnviro indicators which include Clean Up Sites, Solid Waster, Chrome Platers, and others. Review the list to identify what to include on the map.

Policies

1. Promote social equity and environmental justice, including the fair treatment and meaningful involvement of people of all races, cultures, and incomes as part of the implementation of the community plan.

a. Consider environmental justice and, where applicable, the equitable distribution of environmental benefits.

b. Encourage inclusive public engagement in decision-making processes.

c. Prioritize efforts to engage low-income households and individuals with Limited English Proficiency.

2. Work with underrepresented and disenfranchised community members, to ensure they are meaningfully involved in the decision-making process.

a. Provide engagement opportunities at times the community can attend, providing materials in straightforward and accessible language without extensive use of technical terms and jargon.

b. Conduct focused outreach when actions may have an impact on a given block, street, or portion of Otay Mesa-Nestor.

c. Provide incentives to encourage participation such as stipends, childcare, and food, where feasible.

3. Collaborate with San Diego Unified Port District, MTS and SANDAG on opportunities to implement micro-transit, such as neighborhood electric shuttles, that would provide access between transit stations, residential neighborhoods, parks, beaches, businesses, and the shorefront.

4. Provide translation and interpretation services at public meetings and on meeting and project notices on issues affecting populations whose primary language is not English.

5. Provide wayfinding signage in English and Spanish.

17. Insert the following text within a new Appendix 4:

Appendix 4 Archaeological, Paleontological, Tribal and Cultural Resource Policies

1. Work with development applicants to site and design proposed development to avoid adverse impacts to archaeological, tribal cultural, and paleontological resources to the maximum extent feasible in accordance with the requirements of the San Diego Municipal Code.

a. Evaluate alternatives that would result in the fewest or least significant impacts to archeological, tribal cultural, paleontological, and coastal resources, and the alternative with the least impacts shall be implemented.

b. Provide adequate data recovery and mitigation for adverse impacts to archaeological and Native American sites as part of development where development would adversely impact archaeological, tribal, cultural, or paleontological resources. Include measures to monitor, conserve in situ, or recover, as appropriate, buried deposits from the tribal cultural, archaeological and historic periods, under the supervision of a qualified archaeologist and a Native American monitor.

2. Consult with local Native American tribes to provide interpretive signage regarding tribal history, language, and context when feasible and appropriate on public land.

3. Conduct project specific Native American consultation early in the development review process to ensure culturally appropriate and adequate treatment and mitigation for significant archaeological sites with cultural or religious significance to the Native American community in accordance with all applicable local, state, and federal regulations and guidelines.

4. Conduct project-specific investigations in accordance with all applicable laws and regulations to identify potentially significant tribal cultural and archaeological resources.

18. Insert the following as new Appendix 5:

Appendix 5: Multimodal Access in the Coastal Zone

Goal:

Multimodal system that provides access to people who live, work and visit within the community to the biological, cultural, and recreational value that beaches and other coastal resources.

Discussion

Having a balanced transportation system with multimodal infrastructure that safely and efficiently moves people of all ages, incomes, and abilities will provide additional mobility options that help to reduce greenhouse gas emissions and vehicle miles traveled. This will help to support a healthier future for individuals, families, and the community.

Policies

1. Pursue mobility improvement projects and programs throughout the community that support sustainable, equitable, and safe ways to move around such as walking, bicycling and transit, in order to help to reduce vehicle miles traveled (VMT) to meet State, regional, and local climate and mobility goals. Mobility improvement projects that repurpose existing streets or other public rights-of-way, and mobility programs that can replace single-occupancy vehicle trips, can include but are not limited to:
 - a. Providing new bicycle and pedestrian lanes or pathways.
 - b. Enhancing existing pedestrian and bicycle facilities to address safety and public access issues.
 - c. Reducing or repurposing vehicle travel lanes to enhance multimodal access within the public right-of-way.
 - d. Modifying or replacing on-street vehicle parking with sustainable transportation facilities where the right-of-way does not yet provide high-quality multimodal access, and where adequate, alternative parking for coastal access will remain available nearby. This can include, but is not limited to, parking conversion through restriping for transit, pedestrian, and bicycle access enhancements.
 - e. Using temporary closures of streets to vehicle traffic, where alternative vehicular access currently exists, to enhance the right-of-way for more vulnerable roadway users during special events.
 - f. Providing transit infrastructure, such as dedicated travel lanes, turnout areas, crosswalks, shelters, and stations.
 - g. Providing improvements for shared mobility services, such as ride-share, electric scooters and bikeshare to increase public access.
2. Encourage public coastal access through increased transit, neighborhood circulator services, and micromobility options.
3. Evaluate paid and time-limited on-street parking options to avoid unreasonably interfering with the public's ability to access coastal resources and recreational areas prior to implementing within the Coastal Zone.
 - a. Establish a minimum time period of four-hours for on-street parking in locations where street parking is used to access to coastal resources and recreational areas, when considering time-limited on-street parking.
 - b. Ensure that parking fees are generally comparable to those charged at similar public parking facilities that provide access to coastal resources in the region and should be considered only as part of a program that provides access for low-income users. Parking revenue collected in the Coastal Zone shall be directed towards the provision of alternative transit options within the Coastal Zone.

4. Consider all forms of travel when providing multimodal access to coastal recreation areas.
 5. Ensure that mobility projects are consistent with habitat protection polices and standards, such as wetland buffers and the protection of environmentally sensitive habitat.
 6. Projects in the Coastal Overlay Zone that result in changes to the planned or ultimate roadway classifications of major coastal access roadways or remove on-street vehicle parking shall assess the project's effects on public coastal access with regard to biking, walking, transit access, and vehicle circulation through a coastal development permit. Where appropriate, this analysis should include assessments of how travel times resulting from the project will affect the ability of the public to access the coast and other public recreational resources such as trails and parks. In particular, the analysis should consider potential impacts to the ability of environmental justice or disadvantaged communities to access the coast and options for avoiding such impacts. Where an analysis identifies unavoidable impacts, roadway modification projects shall be accompanied by additional public access benefit enhancements promoting equitable multimodal access. Public access benefit enhancements may include, but are not limited to, increased transit services, improved pedestrian and cyclist access, and increased public parking.
 7. Monitor the effects of a mobility project improvements on public coastal access and other public recreational resources such as trails and parks, where applicable, for bicycle, pedestrian and transit access, and vehicle circulation.
 8. Where impacts to public access are identified, off-setting public access benefit enhancements shall be pursued.
 9. Maintain existing City-owned parking for coastal access.
19. Revise Attachment 8, Figure 10 "Coastal Jurisdictions" Map, to show the coastal zone boundary, the subject site, and the remaining area of deferred certification, and remove areas described as Coastal Commission Permit Authority and Coastal Commission appeals area.

I. FINDINGS FOR DENIAL OF CERTIFICATION OF THE CITY OF SAN DIEGO OTAY MESA-NESTOR LAND USE PLAN AMENDMENT, AS SUBMITTED, AND APPROVAL IF MODIFIED

A. AMENDMENT DESCRIPTION

The changes proposed to the City's Land Use Plan include updating the Otay Mesa-Nestor Community Plan and changing the Land Use Designation on a 14.62-acre site located at 408 Hollister Street from Open Space to Medium-Density Residential to facilitate the

construction of a 380-unit apartment complex (with 100 affordable units), over 15 buildings and referred to as the Bella Mar Apartments (ref. [Exhibit No. 6](#)).

B. CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT

The Commission finds, pursuant to Section 30512.2b of the Coastal Act, that portions of the Land Use Plan as set forth in the preceding resolutions, are not 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 does not conform with Chapter 3 of the Coastal Act or the goals of the state for the coastal zone with regard to public access and recreation, environmentally sensitive habitat areas, wetlands, water quality, new development, environmental justice, and archeological and paleontological resources.

C. CONFORMITY OF THE CITY OF SAN DIEGO OTAY MESA-NESTOR LAND USE PLAN WITH CHAPTER 3

Relevant Coastal Act policies include the following:

Section 30210 of the Coastal Act states:

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

Section 30212 of the Coastal Act states, in part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway. [...]

Section 30212.5 of the Coastal Act states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Section 30222 of the Coastal Act 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 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where

feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30233 of the Coastal Act states:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following: [...]

(6) Restoration purposes.

(7) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for these purposes to appropriate beaches or into suitable longshore current systems.

Section 30236 of the Coastal Act states:

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

Section 30240 of the Coastal Act 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 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Section 30251 of the Coastal Act states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. [...]

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Section 30253 of the Coastal Act states:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
- (c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.
- (d) Minimize energy consumption and vehicle miles traveled.
- (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

Section 30255 of the Coastal Act states:

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related

developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

Section 30270 of the Coastal Act states:

The commission shall take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify, assess, and, to the extent feasible, avoid and mitigate the adverse effects of sea level rise.

1. FINDINGS FOR DENIAL

A. Otay Mesa-Nestor Community Plan Update (OMNCPU)

The subject LUP Amendment request includes many revisions to the Otay Mesa-Nestor Community Plan, including policy changes that will affect the entire Community Plan area, as well as changes that specifically address the proposed development of 380 residential units over 15 buildings at the Bella Mar site.

The last time the Commission reviewed the Otay Mesa-Nestor Community Plan was in 1997, and, given this, several of the policies need to be updated. While the City has updated some portions of the Community Plan in the proposed amendment, the changes fail to adequately address several Coastal Act requirements, including the protection of public access, recreation, Environmentally Sensitive Habitat Areas, wetlands and water quality. Additionally, the Community Plan does not currently include any provisions relating to Tribal, Cultural or Archeological resources, Environmental Justice, or multi-modal transportation options, to help ensure that new development occurs in a way that is least impactful to coastal resources.

Public Access and Recreation

The Otay Mesa-Nestor Community Plan area originally did not contain any lands adjacent to the shoreline. However, as revised in 1997, the Community Plan now includes 740-acres of land adjacent to San Diego Bay. This area is currently developed with the South Bay Salt Works. Additionally, beginning in 1990 the City, in collaboration with the County of San Diego and the City of Chula Vista set aside a planning area within the Otay Mesa-Nestor community to establish the Otay Valley Regional Park. The Otay Valley Regional Park represents one of the major open spaces areas within southern San Diego County and includes playing fields, picnic areas, and hiking trails as well as provides preserve areas to protect open space, wildlife and historic resources ([Otay Valley Regional Park\(sdparks.org\)](https://sdparks.org)). The park extends 11 miles beginning at the southeastern edge of the salt ponds, through the Otay River Valley, ending at the Upper Otay Lakes Resort. While the existing Community Plan does include some provisions that aim to protect the Regional Park and identify public access opportunities through future redevelopment of the Salt Ponds, the Community Plan fails to ensure that these existing resources are protected and, where feasible, enhanced.

Specifically, the Community Plan does not include policies that will ensure that public access to these facilities remains affordable, maximizes hours of use and does not provide clear direction that waterfront access, including linkage from the Salt Ponds to other

recreational opportunities, is created and maintained through the redevelopment of the Salt Ponds area.

The Coastal Act has numerous policies related to the provision and protection of public access. In a community such as Otay Mesa-Nestor that has very little access to the shoreline, protection and enhancement of public access is particularly critical. In this case, the Community Plan lacks policies to ensure that current access is maintained, or that future development within the Community Plan area provides new and connecting public access and recreation opportunities consistent with sections 30210, 30212 and 30222 of the Coastal Act.

Visitor-Serving Overnight Accommodations

Otay Mesa-Nestor contains one visitor-serving overnight accommodation, a lower-cost motel (Motel 6 San Diego – Southbay), that is located within one of the several Visitor-Serving Commercial areas in the Community Plan. There is one additional hotel (Prime Inn San Diego) that would likely also provide lower-cost accommodations; however, the facility is shown as temporarily closed. Additionally, there are a total of eight lots currently zoned for Visitor-Commercial that could be developed with overnight accommodations in the future.

The Coastal Act requires protection, encouragement, and, where feasible, the provision of lower-cost visitor and recreational facilities. As the cost of land in California's Coastal Zone is extremely high, hotel accommodations are often higher priced in order to be profitable and lower-cost accommodations are becoming increasingly rare. However, it is the Commission's responsibility to ensure all people are able to access and recreate at California's coast.

In November 2016, Commission staff presented a comprehensive study of lower-cost visitor accommodations eliminated from the coastal zone since 1989.¹ The study considered six cost categories ranging from "economy" to "luxury" and found that 24,720 total economy rooms had been lost, while only 11,247 rooms of the higher cost categories had been lost since 1989.² These survey results indicate that nearly 70% of all hotel rooms eliminated from the coastal zone from 1989 to 2016 were economy rooms, whereas less than 10% of the rooms lost were in the upscale and luxury categories. Of the hotels that are being developed, a greater number of hotels offer high-cost accommodations. The remaining moderate and lower-cost hotels in the coastal zone typically constitute older structures that become less economically viable as time passes. It is often more lucrative for developers to replace these older structures with higher-cost accommodations. Such trends have thus made it difficult for visitors with limited financial means to access the coast; many of these visitors travel from inland locations and cannot easily make the trip to the coast and back home again in a single day. Although statewide demand for lower-cost accommodations in the coastal zone is difficult to quantify, lower-cost hotels, camping, and hostel opportunities are generally in high demand in coastal areas and that there is an

¹ Ref. Public Workshop: Lower Cost Visitor Serving Accommodations, published by Commission staff on October 26, 2016, available at <https://documents.coastal.ca.gov/reports/2016/11/th6a-11-2016.pdf>.

² Public Workshop: Lower Cost Visitor Serving Accommodations, published by Coastal Commission on October 26, 2016

ongoing need to provide more lower-cost opportunities along California's coast. In a Coastal Conservancy-commissioned survey conducted in 2017, an assessment of lower-cost overnight accommodations found that respondents cited financial concerns as the primary reason they do not stay overnight at the coast. Over 45% of Californians said that overnight accommodations at the coast were inconvenient or unaffordable.³

Currently the Community Plan does not contain policies that would protect the existing lower-cost accommodations, require replacement of these lower-cost rooms if redevelopment of the site occurs, or require that new overnight accommodations provide a range of affordability. Without such requirements, the Community Plan does not adequately provide or protect overnight accommodations that will maximize the public's ability to visit and recreate at the coast, inconsistent with sections 30213 and 30222 of the Coastal Act.

Environmentally Sensitive Habitat Areas, Wetlands, and Water Quality

The Otay Mesa-Nestor Community Plan area includes several sensitive habitat areas, including the Otay River, the San Diego Bay and adjacent salt ponds, Nestor Creek, wetlands, and sensitive riparian and upland habitat areas. The certified Community Plan recognizes the importance of the Otay River Watershed and over the last 20 years significant portions of the river valley have become protected by adding these lands into the Otay Valley Regional Park, by acquiring and conserving land as part of the City's Multi-Species Conservation Plan (MSCP) area and by the U.S. Fish and Wildlife Service through additions to the San Diego National Wildlife Refuge. However, portions of the land surrounding the Otay River, including several privately-owned sites, the Salt Ponds, and lands surrounding Nestor Creek, contain sensitive habitat that is not preserved and could be impacted by future development. Although some of these areas do not contain sensitive resources on site, they are often located directly adjacent to sensitive habitat areas. As proposed, the Community Plan does not include provisions that provide adequate protection of existing habitat through conservation, biological buffers, limits to lighting, etc.

With regard to biological buffers, while the Community Plan includes policy language that requires development to generally minimize impacts to existing wetland or wildlife habitat buffer areas, this policy language is not detailed enough to ensure the buffer will protect sensitive habitat. As currently certified, vegetation removal and various permanent structures could be constructed within the biological buffer, inconsistent with section 30240 of the Coastal Act.

Several wetland areas are also present within the Community Plan area. While some of these areas are protected as Open Space, several privately-owned, undeveloped sites are located adjacent to or within wetlands. The certified LUP recognizes the presence of wetlands and requires reports within the Special Study Area to identify wetlands, but does not identify uses permitted in wetlands, does not provide adequate protection for wetlands, and does not include any buffer requirements when developing adjacent to wetlands inconsistent with Sections 30230, 30231, 30233, and 30236 of the Coastal Act.

³ Explore the Coast Overnight- An Assessment of Lower Cost Accommodations, published by State Coastal Conservancy on January 8, 2019, available at <https://scc.ca.gov/projects/etco/>.

Additionally, the Community Plan fails to address protection of water quality within Otay River, Nestor Creek, and the Salt Ponds. Impacts to water quality can occur from allowing inappropriate uses within waterways and inadequate biological buffers. Additionally, the Community Plan does not require new development within the Otay Mesa-Nestor communities to include modern water quality protection, such as green building standards, construction Best Management Practices (BMPs) or Low Impact Development (LID) standards, nor does the Community Plan specify that development must also comply with the City's stormwater requirements.

Land use plan updates should include policies for protecting environmentally sensitive habitat areas (ESHA), consistent with Section 30240, as well as protection for wetlands and water quality consistent with Sections 30230, 30231, 30233, and 30236; both as currently identified and providing for future determinations to be made as resources and conditions change over time.

New Development

While a large portion of the Community Plan area is outside the Coastal Zone, and the majority of the land within the Coastal Zone is part of the San Diego Bay preserve, MSCP lands or the Otay Valley Regional Park, there still remains several privately-owned sites adjacent to the Otay River and the Salt Ponds that may be developed or redeveloped in the future. The current Community Plan does identify preferred uses within areas of the Community Plan but does not include specific policies that will ensure new development will not significantly impact coastal resources.

As proposed, future development may be proposed that could be considered to be consistent with the certified Land Use Plan, but result in impacts to coastal resources, that also may not include measures to enhance public access and coastal views, or provide adequate protection of adjacent sensitive coastal habitats.

Coastal Act Sections 30213, 30251, 30252, 30253, and 30255 taken collectively ensure that new development includes uses that serve visitors, does not obstruct public views or public access, minimizes risk to property and life, and locates development in areas in close proximity to alternate transit facilities. While the Community Plan includes general provisions for some of these concerns, there are no specific restrictions or standards required, inconsistent with the above-cited Coastal Act policies.

Environmental Justice

The community's planning history as part of the City of San Diego (City) began in 1957 when this unincorporated area was annexed to the City from the county of San Diego. In 1957 there were less than 1,000 housing units in the area. Shortly after annexation to the City, single-family residential subdivision development began. By the late 1960s, residential development had accelerated dramatically causing serious problems in supplying adequate public facilities in the Otay Mesa-Nestor and San Ysidro areas. In 1973, the City Council rezoned a number of vacant properties to a lower density to reduce deficiencies in, and future demand on, public facilities and services.

In 2023, the California Office of Environmental Health Hazard Assessment identified Otay Nestor-Mesa as a disadvantaged community having low to moderate level of air pollution as shown on the state's CalEnviroScreen mapping tool⁴. The California Air Resources Board has identified Otay Nestor-Mesa as a low-income community, which is generally defined as census tracts with median household incomes at or below 80 percent of the statewide median income. Additionally, the City of San Diego also identified Otay Nestor-Mesa as a neighborhood with low to moderate access to opportunity based on environmental, health, housing, mobility, and socioeconomic indicators as shown on the City's Climate Equity Index.

While not the standard of review for LCPs, Section 30604(h) of the Coastal Act provides that when acting on a coastal development permit, the issuing agency "may consider environmental justice, or the equitable distribution of environmental benefits." By referring to "the issuing agency," the Legislature's intention was that both the Coastal Commission and local governments would use this authority and consider environmental justice. As defined in Section 30107.3 (a) of the Coastal Act, "environmental justice" means "the fair treatment and meaningful involvement of people of all races, cultures, incomes and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies," and, pursuant to Coastal Act section 30013, the Commission and all public agencies are charged with advancing environmental justice when implementing the Coastal Act. As currently proposed, the Community Plan does not include any provisions addressing environmental justice. Environmental justice ensures everyone has equal access to, and meaningful participation in, the decision-making process to have a healthy environment in which to live, learn, and work. The Community Plan has the ability to influence conditions that affect the community's health. For example, the Plan can affect how often people walk, ride a bike, drive a car, or take public transportation; their access to healthy food; and the quality of their air and water. Without an understanding of the types of development located in the Community Plan area (Industrial uses that emit a high amount of pollution, lack of safe housing options, inability to access employment), goals for how development should consider such factors in future development, or policies requiring implementation of these goals, the Community Plan fails to ensure development will be undertaken in a manner that ensures the equitable distribution of environmental benefits.

Tribal, Cultural, Archeological and Paleontological Resources

The certified Community Plan does not currently contain policies or regulations that regulate development if there's potential for discovery of tribal, cultural, archeological or paleontological resources on a site. Coastal Act section 30244 requires that where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The Commission acknowledges that California is home to the largest number of Tribes in the contiguous United States, with the federal government (through the Department of the Interior, Bureau of Indian Affairs (BIA)) currently recognizing 109 California Tribes, and

⁴ The latest CalEnviroScreen map can be obtained from the California Office of Environmental Health Hazard Assessment.

with the State of California (through the Native American Heritage Commission (NAHC)) currently acknowledging 55 additional California Tribes and tribal communities. In 2018, the Commission adopted its first Tribal Consultation Policy⁵, and one of the guiding principles is to communicate with and engage with Tribes at the earliest possible stage in the review and decision-making processes. Additionally, the consideration of tribal and cultural resources, alongside archaeological resources, is required in planning and permitting decisions at the Commission and has been included in several other land use plan updates throughout the state (ref. LCP-6-BRL-22-0022-1/Barrio Logan Community Plan Update, LCP-4-STB-18-0039-1/Gaviota Coast Plan, Hunting Beach LCP Amendment No. 1-06). Without inclusion of similar policy language there is the potential that future development could be approved that doesn't provide adequate tribal consultation and could impact cultural, archeological, or paleontological resources, inconsistent with Section 30244 of the Coastal Act, and with the Commission's Tribal Consultation Policy.

Multi-Modal Transportation

In August 2023, the Commission adopted the California Coastal Commission Sustainability Principles (ref. [Sustainability Principles Adopted August 9 2023 Final.pdf \(ca.gov\)](#)) and the integration of policies promoting the use of multi-modal transportation opportunities are a primary goal within this document. Included were the following findings:

California's ambitious but necessary targets for GHG emission reductions cannot be met without integrated and aligned efforts across relevant sectors. The Commission is dedicated to playing its part in this effort through continued or renewed coordination with its state, regional, and local partners. A key aspect of this will be the Commission's continued participation in CNRA's Cutting Green Tape Initiative, which will help to identify additional opportunities and methods for facilitating conservation and restoration projects. The Commission will also continue to coordinate with Caltrans and other transportation planning entities to integrate multi-modal opportunities, complete streets, zero-emission transportation, and less emission-intensive construction alternatives in transportation projects to reduce VMT, energy consumption, and GHG emissions. (Page 17)

[...]

In the coastal zone, such strategies are inherently connected to Coastal Act mandates for maximizing coastal access for all people, minimizing VMT and energy consumption, and locating new development in areas with adequate public services. The location, density, accessibility, and affordability of housing, jobs, and other land uses in part determine the distances people need to travel to reach various destinations. These factors also influence which mode of transportation can be provided and used (e.g., car, bus, train, walking, or bicycling). By emphasizing sustainable land use practices such as compact land use patterns, inclusionary housing options, complete streets, ZEV infrastructure, and integration of active and multi-modal transportation improvements with new development at the planning and

⁵ <https://documents.coastal.ca.gov/assets/env-justice/tribal-consultation/Adopted-Tribal-Consultation-Policy.pdf>

project level, the Commission and local jurisdictions can achieve both Coastal Act requirements and statewide GHG emission reduction goals. These strategies can also decrease vehicle dependency, improve community health and climate resiliency, reduce air pollution, and increase public access options to and along the coast. The Commission has and will continue to further these efforts through staff review of LCPs, CDPs, and Sustainable Communities Strategies, which provide the opportunity to harmonize long-term regional transportation and housing planning with Coastal Act requirements for resource protection and hazard avoidance. (Page 22)

Coastal Act Section 30252 specifically states that new development should maintain and enhance public access to the coast by facilitating public transit services, providing commercial facilities in residential and other areas, providing non-automobile circulation options, providing adequate parking or access via public transit, assuring the potential for public transit with new high-density uses, and providing sufficient recreational facilities to not overload nearby coastal recreation areas. Section 30252 thus complements Section 30250 with its emphasis on providing a variety of non-automobile transportation opportunities and a mix of services and land uses to reduce vehicle dependency in concentrated developed areas. Section 30252 also complements Coastal Act Section 30210 and other Coastal Act provisions that call for maximizing public access to the coast for all people, which can be achieved in part through facilitation of multi-modal transportation options.

Multi-modal transportation can be defined as any new or enhanced transportation infrastructure that provides for more than one mode of transportation within a public right-of-way or a development site and that specifically provides for non-automobile transportation. Multi-modal transportation primarily facilitates “active transportation,” which is traditionally considered to be non-motorized (e.g., cycling, walking, scooting, skating, and other non-motorized human powered transportation). Electric bikes and scooters are a more recent form of multi-modal transportation that blends motorized and non-motorized cycling transportation. Multi-modal transportation also includes the facilitation of public transit networks, including dedicated bus infrastructure or lanes and provisions for rail transportation. By encouraging active transportation and the use of shared public transit, multi-modal transportation projects reduce the use of personal vehicles and thereby reduce vehicle miles traveled (VMTs) and greenhouse gases (GHGs). Active transportation also supports healthier lifestyles and more livable communities, while multi-modal improvements can make transportation networks more inclusive for communities from different socioeconomic backgrounds, thereby improving transportation equity. Multi-modal improvements are also key to complete streets designs and intermodal network connectivity. For an example of facilitating multi-modal improvements through a certified LCP, see [City of Pismo Beach LCP No. LCP-3-PSB-18-0076-2 Part B \(Circulation Element Update\)](#).

As proposed, the Community Plan does not include policy language encouraging projects to include multi-modal transportation development. Without such policy language, projects such as reduction in vehicle lanes to provide improved non-motorized access (e.g., bicycle lanes) would require changes to the Land Use Plan, such as Figure 5 which identifies the number of vehicle lanes for major roadways within the Community Plan. Additionally, future access routes should be considering multi-modal options as part of the project

design, and without this, the proposed amendment cannot be found as adequate to carry out the requirements of Sections 30210, 30250, 30252 and 30253 of the Coastal Act.

B. Land Use Revision for the Bella Mar Site

The LUP amendment also includes a project-driven land use designation revision on a single, 14.62-acre site from Open Space, a designation reserved for land or water areas generally free from development or developed with low intensity uses that respect natural environmental characteristics, to Medium Density Residential, which will ultimately facilitate the construction of a 380-unit apartment complex (with 100 affordable units for low and very-low incomes), over 15 buildings and referred to as the Bella Mar Apartments (Bella Mar).

The site is located at 408 Hollister Street and is bounded on the west by Interstate-5, Hollister Street to the east, is located south of Hollister Pond and the Otay River and north of a small golf course, and residential development. Vegetation on the site is predominantly ruderal, with the exception of the northernmost portion of the site, which contains wetland habitat. The entire site is located within the 100-year floodplain. When Commission staff was first made aware of the proposed land use change on the site in 2019, the primary concern raised was the location of the site within the floodplain. Historically, the Commission has considered fill and/or permanent structures which have the potential to alter the flow of a river or stream to be "channelization" limited by Section 30236 of the Coastal Act. However, in this case, the applicant has provided significant hydraulic evidence that the development will not significantly alter the flow of the river, nor will the project result in any changes to floodwaters either on or off site. The Commission's staff engineer has reviewed the hydrological analysis and agrees with the conclusions of these reports. However, the proposed Community Plan amendment fails to include specific provisions for future development within the floodplain. The Community Plan amendment also fails to include specific provisions to ensure that construction of the Bella Mar project will not adversely impact wetlands or the river channel in the future.

The site is also located in proximity to trail connections to the Otay Valley Regional Park (OVRP) located to the north of the project site. Additionally, the City's Otay Valley Regional Park Concept Plan identified the subject site as a place for future potential recreational uses. While the Regional Park is now complete, and the site was not acquired by the City and developed for recreational uses, given the proximity to the regional park and existing trails within the regional park, the proposed change from Open Space to a higher-density residential use, without specific provisions for public access to any portion of the site cannot be found as consistent with several policies of the Coastal Act.

Additionally, as proposed the low-cost units will be physically separated from the market rate units, and may not have access to the same amenities, inconsistent with the Coastal Commission's Environmental Justice policy.

2. FINDINGS FOR APPROVAL IF MODIFIED

A. Otay Mesa-Nestor Community Plan Update (OMNCPU)

Public Access and Recreation

The Otay Mesa-Nestor Community Plan area includes several public access amenities including the Otay Valley Regional Park (OVRP) that require protection. While policy language in the existing Community Plan helped facilitate the construction of the OVRP, there continues to be a need to ensure that the park remains open and available to the public, and future development considers the potential to link to existing access amenities or expand access. While the proposed amendment includes some provisions to address this, the Commission finds that as proposed, public access and recreation is not adequately addressed, and have included three suggested modifications to address this concern. **Suggested Modification No. 4** includes a provision that requires that any proposed development within the Special Study Area (lands surrounding Otay River and the Salt Ponds) include, as part of the required Site-Specific Study, the consideration of public amenities that enhance public access along the waterfronts adjacent to the San Diego Bay, the salt ponds, the Otay River and Nestor Creek, and that connect with existing and future transit. **Suggested Modification No. 6** requires signage along view and access points to make clear the location of trailheads, parking, public stairways, etc. Finally, **Suggested Modification No. 9** adds ten new policies, that when taken collectively protect existing recreational access, and open space areas, encourages improved waterfront access and access along routes to transit stops, encourages new parks in underserved communities, enforces protection of natural resources through Open Space designations, and provides regulations for public access trails located in biological buffers, while still requiring preservation of major topographic features, sensitive habitat, and natural drainage systems.

Visitor-Serving Overnight Accommodations

In order to ensure that existing lower-cost overnight accommodations are protected, **Suggested Modification No. 10** includes three new policies that will protect both existing lower-cost accommodations as well as ensure future development will include a range of affordability. The first policy within Suggested Modification No. 10 defines lower- moderate- and high-cost accommodations. Lower-cost accommodations are defined as those that have an annual average rate equal to or less than 75% of the statewide average. Moderate-cost is defined as between 75% and 125% of the statewide average. High-cost is defined as 125% or greater than the statewide average. It also requires that replacement of lower-cost units be provided at a 1:1 mitigation ratio within the Coastal Zone. Thus, if it becomes necessary to redevelop the existing motel, or any other future lower-cost overnight accommodations, adequate replacement will be ensured, including that the replacement units will be in proximity to the coast. Suggested Modification No. 10 also requires that new development of high-cost overnight accommodations include at least 25% of the proposed units as lower-cost. If, the provision of the lower-cost units on-site is determined to be infeasible pursuant to a feasibility analysis, then Suggested Modification No. 10 further requires that the new development shall provide lower-cost units elsewhere within the City's Coastal Zone. If it is determined that the project cannot provide lower-cost units on or offsite, in-lieu mitigation fees shall be required.

In 2014, following Commissioner questions regarding the adequacy of the in-lieu fee for lower-cost accommodations at Commission hearings, Hosteling International provided an updated report representing the true construction costs of a new hostel, which stated that new construction costs approximately \$42,120 per hostel bed, without the cost of land

acquisition. In order to verify this information, the Commission consulted Maurice Robinson & Associates. Robinson concurred with the figures and stated:

This lends itself to a two-tiered Index for a representative cost to develop low-cost lodging statewide. The \$42,120 per bed estimate for the structure can be indexed on an annual basis, either by CPI (Consumer Price Index) or, alternatively, with a more construction industry-specific index such as the Turner Building Cost Index.

The Turner Building Cost Index is used widely by federal and state governments to measure costs in the non-residential building construction market in the United States⁶ Robinson further expanded on the cost of providing motel or hotel rooms rather than hostel beds and estimated:

These new motel rooms would likely cost nearly \$100,000 per room to develop (excluding land), which is more than twice the cost of a hostel bed, mostly due to the fact that motels require approximately twice the gross square footage per person than hostels.

A standard hotel or motel room (250 sq. ft. average) represents a much larger space than a single hostel bed. The cost of constructing new lower-cost hotel rooms is significantly higher than replacing them with hostel beds. Following this information and suggestion, the Commission required new high-cost hotel projects and projects that eliminated existing lower-cost overnight accommodations to pay an in-lieu mitigation fee of \$100,000 per required lower-cost room not provided onsite⁷. This requirement was based on information provided in 2015. However, when considering the approximate 27% increase in the Turner Building Cost Index in the last seven years (likely related to inflation and other factors), the estimated cost of constructing a lower-cost hotel or motel room has increased from \$100,000 per room to \$137,00 per room, as of December 2022.⁸

In addition, while some visitors may be willing to stay in the type of shared accommodations provided by hostels, many prefer to stay in more traditional rooms. The replacement of lower cost hotel or motel rooms with hostel beds polarizes the overnight visitor-serving accommodation types remaining into two options: high-cost hotel rooms or hostel beds in shared rooms, which may inhibit some members of the public from receiving overnight access to the coast. The mid-range affordable overnight options are effectively eliminated by this replacement method. The same principle is true for mitigating the loss of lower-cost hotel rooms solely with RV parks or campgrounds.

In June 2023, the Commission approved the Barrio Logan Community Plan Update, another community in the City of San Diego, which included similar suggested modifications that require the construction of new lower-cost rooms as part of any high-cost accommodations development, or payment of an in-lieu mitigation fee, that is to be

⁶ The Turner Building Cost Index is used widely by federal and state governments to measure costs in the non-residential building construction market in the United States. (Ref. <http://www.turnerconstruction.com/cost-index>)

⁷ Ref. CDP 5-18-0872 (Sunshine Enterprises, LP), CDP 5-20-0181 (B&J Capital Group Investments)

⁸ The Turner Building Cost Index was 943 for 2015 and 1295 for 2022. The figures are $1295 - 943 = 352 / 943 = 0.37 * 100\%$, which results in a 37% increase since 2015.

adjusted over time using the Turner Building Cost Index (ref. [Th18b-6-2023-report.pdf \(ca.gov\)](#))/City of San Diego Barrio Logan Community Plan Update. Using the above formula, the mitigation fee was calculated to be \$137,000 per room (using December 2022 costs). However, in this case, Suggested Modification No. 10 does not include a specific dollar amount and instead requires an in-lieu mitigation fee based on approximate construction costs per room, adjusted for inflation using a building cost index as needed, plus land cost square footage. Construction costs shall be based on approximate hard and soft costs of building at least 25% of the proposed units as lower-cost accommodations on-site or shall be based on a comparable per-room construction cost estimate. Land cost calculations shall be based on the average square footage of commercial land sales in the City over the past five years. The fee shall be used for construction of new lower-cost hotel rooms or other inherently lower-cost accommodations (e.g., motels, hostels, campgrounds, cabins) within the coastal zone in the City. The updated mitigation fee requirement allows a more accurate way to determine the actual cost of constructing new lower-cost units, which is likely more than the previous \$137,000 in-lieu fee identified in the Barrio Logan Community Plan update, and would continue to allow costs to increase overtime, based on several factors and not limiting construction costs to the Turner Building Cost index.

The mitigation fee shall be used for construction of new lower-cost hotel rooms or other inherently lower-cost accommodations within the coastal zone in the surrounding area. All in-lieu fee payments shall be deposited into a fund to be established and managed by the State Coastal Conservancy, or a similar entity approved by the Executive Director of the California Coastal Commission, which shall be in an interest-bearing account and shall only be used for the provision of new lower-cost overnight accommodations. Funds may be used for activities including land acquisition, construction, permitting, or renovation that will result in the provision of additional lower-cost overnight visitor accommodations.

In summary, these suggested modifications will ensure that existing lower cost accommodations are protected from conversion to other uses or to high-cost accommodations and will ensure that new high-cost accommodations development includes lower-cost accommodations. If lower-cost accommodations are found to be infeasible both on- and off-site, in-lieu fees will be required.

Environmentally Sensitive Habitat Areas, Wetlands and Water Quality

The lands included within the Otay Mesa-Nestor Community Plan area include several sensitive habitats, including Environmentally Sensitive Habitat Areas (ESHA), riparian habitat, wetlands, and floodplain. As discussed above, while the City's LUP update does include several new policies that will provide improved regulations, the LUP Amendment cannot be found consistent with several Coastal Act policies. Several suggested modifications have been included in order to better protect these resources. **Suggested Modification No. 12** adds eleven new policies that will better protect ESHA within the Coastal Zone. Collectively, these policies 1) prohibit significant disruption to ESHA and limit uses to those dependent on the resources; 2) require new development to be sited to prevent impacts to adjacent ESHA; 3) require biological surveys aimed to preserve and restore ESHA and include consideration for sea level rise; 4) require open space protection (such as deed restrictions, conservation easements, etc.) to ensure ESHA is protected; 4) minimize lighting; 5) preserve vernal pool habitat, 6) limit development on steep slopes; 7) limit grading to the minimum necessary; and 8) include regulations and

allowable uses in biological buffers. As revised, ESHA will be protected consistent with the requirements of the Coastal Act.

With regard to wetlands and water quality, **Suggested Modification No. 13** includes nine new policies that will provide adequate protection of wetlands. When taken collectively, these policies limit the uses permitted in wetlands consistent with Section 30233 of the Coastal Act, minimize impacts associated with new development adjacent to wetlands, and require restoration of waterways where appropriate, including Tijuana, Nestor and Otay Rivers. Suggested Modification No. 13 further requires protection, preservation and enhancement of the flood plains, open waters or the lagoon, rivers, wetlands and marshlands and specifically requires that the Otay River corridor (which is currently largely degraded) be rehabilitated through preservation and revegetation, where feasible, and requires biological buffers of at least 100-feet separating development from any wetlands. Suggested Modification No. 13 includes water quality protection and enhancement policies consistent with section 30230 of the Coastal Act. As revised, the Community Plan will require new development to incorporate water quality protection measures, encourage permeable landscaping, limit runoff into open space areas, encourage pollution control measures, integrate stormwater Best Management Practices (BMPs) and Low-Impact Development (LID) practices, and prohibit the use of synthetic rubber surfaces, which leach toxins into the environment as they break down over time, on playgrounds, public pathways and trails.

Finally, **Suggested Modification No. 2** requires that the wetlands and drainage areas for two sites (Mace Street and Date Court) are maintained and **Suggested Modification No. 5** requires that for lands located within the Special Study Area a habitat element is included in the design to reflect the connection to Open Space.

New Development

A large portion of the Community Plan area, located in the Coastal Zone, is either undeveloped or has the potential to be redeveloped in the near future. In order to ensure that development is undertaken in a manner that is sensitive to the resources present, **Suggested Modification No. 14** adds six new policies that will help ensure new development will be undertaken consistent with the requirements of the Coastal Act, including language mirroring Section 30253 which requires new development is safe from hazards; limiting air pollution; requiring consistency with the City's Land Development Code, Biology Guidelines and Coastal Bluffs and Beaches Guidelines; encouraging the use of bird-safe window treatments and green design; limiting bulk and scale for new buildings; and brush management provisions for when new development is located in an area subject to potential fire hazards. With the inclusion of these six policies, development will occur in a manner that is protective of the coastal resources present within the Community Plan area.

Environmental Justice

Section 30604(h) of the Coastal Act provides that when acting on a coastal development permit, the issuing agency "may consider environmental justice, or the equitable distribution of environmental benefits."

As defined in Section 30107.3 (a) of the Coastal Act, “environmental justice” means “the fair treatment and meaningful involvement of people of all races, cultures, incomes and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies,” and, pursuant to Coastal Act Section 30013, the Commission and all public agencies are charged with advancing environmental justice when implementing the Coastal Act.

Finally, although not a Chapter 3 policy, the Coastal Act also requires that environmental justice be considered in terms of all coastal resource areas, requires that coastal development does not unduly burden any particular segment of the population with adverse coastal resource impacts, especially those communities that historically have been overburdened by such impacts, and reflects a focus on explicitly requiring fair treatment of all people in the application of the Coastal Act and LCP. As described in the Findings for Denial, Otay Mesa-Nestor is a community that has been identified as low-income and disadvantaged. To address this, and as requested by the City, **Suggested Modification No. 15** provides housing and population demographics for the community, as well as anticipated housing needs through 2050. Additionally, **Suggested Modification No. 16**, also proposed by the City, includes the definition of environmental justice and includes five new policies that will promote social equity and environmental justice, and because many of the residents of Otay Mesa-Nestor are Spanish speakers it also requires community meeting materials, park information and wayfinding signage to be provided in Spanish.

Tribal, Cultural, Archeological and Paleontological Resources

To ensure that impacts to archaeological, tribal cultural, and paleontological resources are avoided or minimized, **Suggested Modification No. 17** requires development to be sited and designed to avoid or minimize impacts to the maximum extent feasible. When there is a potential to impact archaeological, tribal cultural, or paleontological resources, Suggested Modification No. 17 also requires the submittal of a monitoring plan that identifies monitoring methods and describes the procedures that will be followed if additional or unexpected resources are encountered during development of the site, including the submittal of a mitigation plan.

Multi-Modal Transportation

To address the concerns raised regarding inclusion of multi-modal transportation options in future development and street redesign, **Suggested Modification No. 18** includes policies to encourage the inclusion of multi-modal access through the coastal portion of the Community Plan. This mobility language was first drafted in coordination with the City in order to help expedite the review of multi-modal projects within the Coastal Zone without the need for individual LCP amendments to update roadway configuration figures included in many of the City’s certified community plans. Beginning in July of 2023, City and Commission staffs began coordinating on language to address this concern, with the anticipation that the language would be included in all of the Community Plans within the City’s Coastal Zone. While this has not been completed to date, Figure 5 of the certified Otay Mesa-Nestor Community Plan details the number of vehicle lanes throughout the community, so future mobility projects that include the reduction of vehicle lanes could potentially require another LCP Amendment. To address this, Suggested Modification No.

16 includes a goal to have a balanced transportation system within a multi-modal infrastructure that safely and efficiently moves people of all ages, incomes, and abilities and provide additional mobility options that help to reduce greenhouse gas emissions and vehicle miles traveled. Also included are seven policies that will require the City to pursue mobility projects, reduce or re-purpose vehicle lanes to support multi-modal use, clarifies that reductions in vehicular lanes should include public access enhancements promoting equitable multimodal access if such changes will significantly impact access to the shoreline, monitor the effects of a mobility project on public coastal access and other public recreational resources, and protect existing City-owned parking for coastal access.

Finally, as proposed Attachment 8, Figure 10 “Coastal Jurisdictions” Map of the Land Use Plan includes boundaries for Coastal Commission permit and appeals jurisdictions, which is not appropriate at this time, as the City does not have any post-certification maps to confirm permitting or appeals authority (ref. [Exhibit No. 7](#)). Additionally, Public Resources Code, § 30603 states that appeal jurisdiction is determined by several factors that include but are not limited to developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance. Given that many of these factors can change over time, the appeals jurisdiction is based on facts on the ground and not through certification of a map. Therefore, **Suggested Modification No. 19** requires the City to submit a revised exhibit that does not include these boundaries.

As revised, the LCP amendment is broadly consistent with Section 30210’s goal to maximize public access, Section 30252’s goals to improve transit and provide non-automobile circulation, Section 30253’s goal to reduce vehicle miles traveled, and will not interfere with public access in conflict with 30212 or other public access provisions of the Coastal Act.

B. Land Use Revision for the Bella Mar Site

The project site is located within the Special Study Area (SSA) overlay of the Otay Mesa-Nestor Community Plan area. Pursuant to Appendix 1B of the certified Community Plan, the City/property owner is required to prepare a comprehensive Special Study for properties located within the SSA overlay designation, prior to revising the land use on the site. However, this requirement was put in place when the future use of the area was uncertain. Since that time, 300-acres (or approximately 72% of the study area) has been preserved as open space, and the need to address the entire area as a whole is no longer warranted. Therefore, given that the majority of the SSA is now public land and protected as Open Space, a comprehensive study would be limited to a few remaining privately-held parcels and the salt ponds. Although the certified Community Plan requires a comprehensive study of the entire SSA overlay area, with the exception of the Bella Mar site, the remaining privately-held properties are owned by several different property owners who are not requesting development be undertaken on their sites, and site conditions may change between now and when the other remaining sites come forward with proposals for development. Therefore, the developer prepared a project specific SSA which includes all the requirements of the Community Plan (as well as a programmatic discussion of areas within the SSA, outside the project site). This approach allows

individual property owners within the SSA to pursue development through an LUP amendment process as long as they provide the necessary analysis and demonstrate consistency with General Plan and Community Plan policies. The Community Plan has also been revised by the City in the proposed amendment to reflect the change from the comprehensive plan, to individual plans as they come forward for development. This is supportable by the Coastal Act, given that the presence of coastal resources will change over time, and review of those resources should be completed at the same time development is being proposed.

As described above, the Bella Mar site is located directly south of Otay River and there are wetlands present on the northern portion of the site. As proposed, the Land Use designation would be revised from Open Space to Medium Density Residential. The Open Space designation was certified for every lot within the Special Study area as a placeholder until the special study could be completed. As proposed, there is no remaining Open Space area on the site to protect the wetlands present, or to provide a biological buffer from the proposed development. To address those concerns, **Suggested Modification No. 1** requires that the development include a 100-foot biological buffer, to be revegetated with a mix of Coastal sage scrub and native grasslands. Additionally, **Suggested Modification No. 12** includes new provisions that prohibit development within the biological buffer (including any removal and/or trimming of native vegetation) with the exception of a public trail to be located in the ten feet located closest to the development envelope and that open space, including biological buffers are protected as such through deed restrictions, conservation easements, revisions to Land Use/Zoning designations, or similar open space protection measures. The restriction of development within the 100-ft. biological buffer will also ensure that no armoring of the riverbanks or within 100-feet of the Otay River will be constructed in the future.

Suggested Modification No. 1 has been included to ensure that a public access trail is constructed on the north side of the property, within the upper 10-feet of the biological buffer. To address the environmental justice concerns raised by the development proposal, **Suggested Modification No. 1** also requires that affordable residential homes included in the development have equal access to the open space areas, the Otay River, and onsite amenities as the market rate homes have, and that the affordable residential homes are not separated by any physical barriers, such as gates, fencing, etc.

As previously discussed, the project site is located entirely outside of the floodway, but within the Federal Emergency Management Agency (FEMA) 100-year floodplain of the Otay River. As currently proposed, fill would be placed over the Bella Mar project site within the flood fringe area to raise the proposed building floor elevations two feet above Base Flood Elevation of the river. As detailed in the Hydraulic Study, the project would meet City and Federal Emergency Management Agency (FEMA) requirements for development within the 100-year floodplain. Based on the hydraulic analysis, the change in ground elevations would not have any impact to the water surface elevation from the existing condition. As currently proposed, the project will also be processing a Conditional Letter of Map Revision (CLOMR) to be approved by FEMA to ensure the project is flood safe. No fill will be placed within the 100-foot biological buffer located between the development and the Otay River and will be left in its natural state, with the exception of a public access trail along the northern perimeter of the development.

The Commission acknowledges that in past actions, projects that require fill or construction of permanent structures in the floodplain are often not approved. This includes a previous Commission action on the Bella Mar site from 2002, where development capable of withstanding flooding (a Recreational Vehicle Park, accessory buildings on stilts) was approved (ref. CDP No. 6-02-103). Additionally, the certified Community Plan does not provide regulations for development adjacent to the floodway. However, the City's Environmentally Sensitive Lands (ESL) regulations, a certified component of the LCP, does allow for development within the floodplain, under certain circumstances. As proposed by the City, the Community Plan will include language regulating development in the floodplain, consistent with the ESL regulations and includes the following:

The ESL regulations allow permanent structures and fill for permanent structures, roads, and other development in the flood fringe area only in limited circumstances when certain conditions are met. These generally include where the development: would not significantly adversely affect the existing sensitive biological resources onsite or offsite, would be capable of withstanding flooding without requiring or causing the construction of offsite flood protective works, would not cause flooding of properties upstream or downstream, would not increase or expand Flood Insurance Rate Maps (FIRM) Zone A (areas of higher risk of flooding), would limit grading and fill to the minimum amount necessary, would minimize harm to environmental values and peak flow storage capacity in the floodplain, would maintain wetlands hydrology, would not significantly increase or contribute to downstream bank erosion and sedimentation, would not cause an increase in flood flow velocity or volume, and would ensure compliance with National Pollutant Discharge Elimination System (NPDES) requirements.

The reason for prohibiting fill or structural improvements is because such development would adversely affect the hydrology of the floodplain or could change the flow and drainage patterns of the affected area; however, in this particular case, the Commission has been working with the City and the applicant since 2019 to address these concerns, and as a result, significant review and modeling were undertaken. All of the information provided by the applicant makes the determination that the development, as proposed, will not alter the Otay River or tributary streams, will not change the 100-year floodplain elevations or flow velocities on-site, downstream, or upstream, will not alter the hydraulic conditions of on-site or off-site sensitive resources, will not increase on-site or off-site flooding, and will not hydraulically impact coastal resources. The analysis determined that the 100-year flow rates, flow velocities, and flow volumes will remain essentially unchanged following development. Furthermore, the analysis found that sea level rise was not expected to change the hydraulic conditions at the site due to floodwaters being controlled by the constriction of the Otay River caused by the San Diego Freeway Bridge. The Commission's staff engineer has reviewed the provided reports and agrees with the conclusions. Given this, there are no adverse impacts to coastal resources, and the Commission can support the project-driven LCP amendment in this particular circumstance.

Additionally, as proposed by the City and included above, a new regulation has been included in the Community Plan that will ensure that only development that will not result in impacts to coastal resources will be supported in the future.

Bella Mar Project

While the Bella Mar project is not formally before the Commission at this time, the Commission will have review of the development when the City issues a Coastal Development Permit, which will be appealable to the Coastal Commission. As proposed, 100 of the 380 units (approximately 26%) of the units will provide affordable housing. Affordable housing is defined using the Area Median Income (AMI) for the region. Area median income is defined as the midpoint of a specific area's income distribution and is calculated on an annual basis by the Department of Housing and Urban Development^[1]. Typically, Low-Income is rated as at or below 80% of AMI, Very Low Income at or below 50% of AMI, and Extremely Low Income at or below 30% of AMI. As proposed, 11 units will be provided at 30% AMI or extremely low-income, 60 units will be provided at 60% AMI, and 28 units will be provided at 80% AMI (both qualifying as Low-Income), and there will be one manager's unit. All the units will be protected as low-income through a 55-year deed restriction.

Additional coastal resource benefits currently proposed as part of the project include the following:

- The project would provide connection to and improvements of the existing local circulation system. The project is located adjacent to transit, with the Palm Avenue Trolley Station located approximately 1,500 feet south of the project site. Additionally, a bus stop is proposed at the project frontage along Hollister Street in both northbound and southbound directions. The proposed mid-block crosswalk would further facilitate pedestrian connections to transit.
- The project will enhance pedestrian and bicycle connections to trails within the Otay Valley Regional Park. New sidewalks will be constructed through the project site leading pedestrians to Hollister Street where the project includes construction of a multi-use path connection on the east side of Hollister Street from the project frontage north to trail system. A midblock crossing is proposed to provide connections to this multi-use path.
- The project will include striped and buffered bike lanes along the project frontage.
- The project will provide a public path on the west side of Hollister Street for connection to Otay Valley Regional Trail system.
- The project will revegetate the 100-foot biological buffer with native habitat.

Changes to MHPA Lands

Currently 5.5-acres of the site are included in the City's Multi-Habitat Planning Area (MHPA). Of this, 2.3-acres (100-foot-wide buffer) is also conserved through recordation of an open space easement recorded in 2002, leaving the remaining 3.2-acres of MHPA lands being utilized for private development, and will be removed from the MHPA through a Boundary Line Adjustment. However, no sensitive habitat is currently mapped within this portion of the site, and the removal of the 3.2-acres from the MHPA can be supported. However, to mitigate the loss of land within the MHPA, the project includes a habitat restoration plan to restore the buffer area with native habitat. **Suggested Modification No. 1** requires that the 100-foot biological buffer be revegetated with native habitat, endemic to the area. A report provided by the developer indicates that while no Burrowing Owls were

present on the subject, they were found present on adjacent lands, and because of this, Suggested Modification No. 1 further required that the habitat within the buffer will include a mix of Coastal Sage Scrub as well as native grasses, which have the greatest potential to provide habitat for the Burrowing Owl in future.

II. FINDINGS FOR APPROVAL OF THE CITY OF SAN DIEGO IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The proposed IP amendment would revise the zoning designation on the 14.62-acres Bella Mar site from deferred certification to a zoning designation of Residential-Multiple Unit (RM-2-5). This zoning designation is intended to accommodate development of multiple dwelling unit developments at varying densities and permits a maximum density of one (1) dwelling unit for each 1,500 square feet of lot area. The action will also change the permitting authority on the site from the Coastal Commission to the City of San Diego. However, the site would remain within the Commission’s appeals authority.

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 certified LUP has a number of goals and policies relevant to the proposed amendment; the most applicable LUP standards are as follows:

Topic 1B Salt Ponds – Strategies

Require the preparation and adoption of a Special Study for property located within the Special Study Area overlay designation prior to any land use changes.

Deny any requests from adjacent cities for jurisdictional boundary adjustments in the south bay area that would jeopardize the integrity of the natural resource and open space systems or result in loss of development potential for the City.

Topic 1B Salt Ponds – Guidelines

Design of future development shall be sensitive to, oriented towards, and enhance the adjacent open space of south San Diego Bay and the Otay River Valley.

TOPIC 4D Drainage and Flood Control – Strategies

Apply appropriate land use designations and zoning regulations in the three drainage basins identified above.

Work cooperatively with community residents to obtain historical knowledge of the flooding characteristics in their community to guide the decision process on development proposals.

Appendix 1B Salt Ponds

1. A Special Study will not be required for development in the SSA that is consistent with the regulations of the following existing underlying zones: FW; A-1-10 and A-1-1, with FPF overlay zone where applied.

The ten-acre Salt Works site shall be considered to be included in the SSA. Development (on-site expansion or modification) necessary for the continued salt plant operation shall be allowed consistent with the M-2 zone, without the requirement of a Special Study. Any other development proposals (change in use) of this site shall require a Special Study (regardless of the M-2 zone).

2. The Special Study will be required prior to or in conjunction with proposals and application for discretionary actions including, but not limited to, the following:
 - Plan amendments.
 - Rezones.
 - Planned Development or Special Development Permits (PCDs, PIDs, PRDs, etc.).
 - Conditional Use Permits (CUPs) and CUP amendments. Due to the variety of land uses and the duration of CUPs that may be applied for, the requirement for a Special Study will be determined on a case-by-case basis.
3. Any land use proposal for an individual property in the SSA shall require the concurrent planning of all other properties in the SSA to a community plan level. This shall be accomplished by those other property owners or, if necessary, by the City. It shall not be the responsibility of any property owner to process land use proposals for any other property owner.
4. Individual property owners may prepare and submit their own development proposals either concurrently with, or after, preparation and submittal for the Special Study.

The Special Study shall:

1. Comprehensively address all the property located within the designated SSA boundary.
2. Assess the biological, sensitive natural resource, natural habitat, and regional habitat and open space connectivity values with the SSA. Potential habitat restoration need be assessed only on those properties owned by the parties preparing the Special Study.
3. Assess the hydrological conditions within the SSA and describe the relationship of these areas with those adjacent to the SSA. Describe the watershed(s) and drainage characteristics within the SSA; explain whether the southern SSA and the Magnesium Pond SSA are linked hydrologically. Determine wetland areas. Provide recommendations for floodplain management to meet the needs of proposed development.

The Special Study shall serve as the basis for establishing land uses in the community plan, including:

1. Identification of appropriate areas for preservation, enhancement, and restoration. Describe and locate the boundaries on-site of the open space preserved areas and public park (OVRP) areas.
2. Identification and designation of appropriate areas for development. Describe and locate the proposed land uses, densities and intensities. Facilitate the revitalization of the Palm Avenue corridor by incorporating appropriate provisions dealing with architecture and site design, landscaping, and signage.
3. Illustration of the relationship of proposed land uses with adjacent land uses. Land uses which facilitate the economic revitalization of the community are encouraged. Describe how land uses will relate to other existing or planned land uses such as Palm Avenue West, Nestor Town Center, and Palm City.
4. Provision of a continuous connection between the Otay Valley, the Salt works, and San Diego Bay. Where necessary to maintain an important existing connectivity, the Special Study should incorporate a habitat element in a design and alignment which respects the value and function of that connectivity.
5. Description of the proposed circulation systems, including road and street alignment and classifications, and the proposed public transit system. Designate where appropriate public trail corridors (bicycle, pedestrian, and equestrian). Trail corridors should be designed to link public open space areas with each other and also to link with other modes of transportation. Address the impact of proposed development on the community's existing circulation system. Provide recommendations for improving the existing circulation system, meeting the needs of the proposed development, and improving coastal access while striving to maintain the integrity, continuity, and connectivity of the natural resources and habitat.
6. Addressing the provision of public facilities and services and provide a development phasing plan where appropriate.

Specific land use proposals shall:

1. Ensure that improvements to the Otay River and Nestor Creek are designed in a manner which enhances their biological and esthetic functions, and complements the goals of the OVRP and the proposed land uses.
2. Contain specific criteria, where appropriate and feasible, for creating a buffer zone adjacent to identified wetlands and habitat areas, including the Otay River and Nestor Creek. Development shall minimize impacts to existing wetland or wildlife habitat buffer areas.
3. Address the goals of the Otay Valley Regional Park (OVRP), including where appropriate to provide opportunities for enhanced public use of this area, and enhance the park experience.
4. Where appropriate, contain criteria for provision of public access, circulation, view points and view corridors. Consider provision of these public amenities

particularly along the waterfronts adjacent to the San Diego Bay, the salt ponds, the Otay River and Nestor Creek.

5. Contain general design criteria, and criteria for the development of individual projects, addressing site design, architecture, landscaping, public amenities, and signage.
6. Be in conformance with applicable local, state, and federal regulations and policies.
7. Describe conformance with related planning efforts and adopted plans including the Multiple Species Conservation Program, Otay Valley Regional Park, and the South San Diego National Wildlife Refuge.

Attachment H Local Coastal Program

Provision of Community Parks and Recreational Areas

The Otay Valley Regional Park Topic recommends developing the Otay Valley, including its coastal areas, as an open space park providing both recreational opportunities and resource protection.

Environmentally Sensitive Habitat Areas

The Otay Valley Regional Park Topic and the Salt Ponds Topic both contain strategies to preserve and restore the natural resources and habitat in the Otay Valley and lower San Diego Bay. The Salt Ponds Topic and Appendix 1b address the application of a Special Study Area overlay designation which requires comprehensive analysis of sensitive resources, habitat, and hydrology in the undeveloped coastal areas of lower San Diego Bay prior to approval of development proposals. By designating properties in the southern portion of the planning area for very low-density residential development and open space, the Plan complements the low-intensity uses in the Tijuana River Valley Plan.

Additional provisions proposed by the subject amendment include:

The ESL regulations allow permanent structures and fill for permanent structures, roads, and other development in the flood fringe area only in limited circumstances when certain conditions are met. These generally include where the development: would not significantly adversely affect the existing sensitive biological resources onsite or offsite, would be capable of withstanding flooding without requiring or causing the construction of offsite flood protective works, would not cause flooding of properties upstream or downstream, would not increase or expand Flood Insurance Rate Maps (FIRM) Zone A (areas of higher risk of flooding), would limit grading and fill to the minimum amount necessary, would minimize harm to environmental values and peak flow storage capacity in the floodplain, would maintain wetlands hydrology, would not significantly increase or contribute to downstream bank erosion and sedimentation, would not cause an increase in flood flow velocity or volume, and would ensure compliance with National Pollutant Discharge Elimination System (NPDES) requirements.

1. FINDINGS FOR APPROVAL

The only proposed revision to the City's Implementation Plan is to certify a zoning designation on the 14-acre Bella Mar site, from an area of deferred certification to the zoning designation of RM-2-5 (Residential-Multiple Unit). The RM-2-5 (Residential-Multiple Unit) zoning designation is intended to accommodate development of multiple dwelling unit developments at varying densities and permits a maximum density of one (1) dwelling unit for each 1,500 square feet of lot area. The 14.62-acre site (636,847 square feet) would accommodate a maximum density of 424 dwelling units in accordance with the RM-2-5 base zone designation and the Medium Density Residential land use designation. The associated Bella Mar project proposes 380 dwelling units (including 100 affordable units), therefore, the forthcoming project is in conformance with the maximum density regulations of the RM-2-5 Base Zone and within the density range for the proposed Medium-Density Residential land use designation within the Otay Mesa-Nestor Community Plan.

Once this Implementation Plan is effective under Commission regulation section 13544, the City will assume permitting authority for this area. The Commission nevertheless retains jurisdiction over development on any tidelands, submerged lands, or on public trust lands, whether filled or unfilled, in this area. (Public Resources Code, § 30519.) Additionally, after the delegation is effective, the newly-certified area will contain areas subject to Commission appeal, as described by Public Resources Code, Section 30603.

As revised, through the inclusion of all Suggested Modifications, the Land Use Plan contains policy language that does not allow development in the floodway, requires protection of sensitive habitat areas, including adequate buffers, minimizes impacts to water quality, addresses public access and recreational requirements, implements Environmental Justice, Archeological and Paleontological requirements, and requires new development to properly protect the coastal resources present within the Otay Mesa-Nestor Community Plan area.

Additionally, the Community Plan, through the approval of Suggested Modification No. 1, will include several policies that directly address the future development of the Bella Mar as follows:

Future Development of the Bella Mar Site:

1. Incorporate a biological buffer from the outer edge of the riparian canopy 100 feet in width consistent with Environmentally Sensitive Lands regulations, and subject to the following:
 - a. Vegetate with native habitat, endemic to the area, and include a mix of Coastal Sage Scrub habitat and native grasses within the biological buffer.
 - b. Maintain the vegetation within the biological buffer consistent with the Environmentally Sensitive Lands regulations and the Biological Guidelines in the Land Development Code.

2. Include a contiguous public pedestrian and bicycle access trail which can be within the uppermost ten-foot portion of the biological buffer located along the north side of the Bella Mar site and adjacent to the Otay Valley Regional Park.

a. Provide public access along the trail.

b. Include interpretive/educational naturel signage along the trail.

3. Ensure that affordable residential homes included in the development have equal access to the open space areas, the Otay River, and onsite amenities as the market rate homes.

4. Ensure that the affordable residential homes are not separated from the market rate homes by any physical barriers, such as gates, fencing, etc.

The change to the zoning can be supported given that measures have been included in the Otay Mesa-Nestor Community Plan as suggested mods, discussed above, that will ensure that the future development of the site will provide adequate protection of the coastal resources present on the site, will require the construction of a public access trail, and will ensure that low-income and market-rate units will have similar design elements, will have equal access to the proposed amenities, and will not fence the low-income units separately from the market-rate development. Given this, all potential LUP inconsistencies with the proposed zoning have been addressed through the suggested changes to the Community Plan, and the proposed zoning for the 14-acre site can be approved as proposed.

Finally, all lands remaining within the Special Study Area, the area considered to be the most sensitive portion of the Community Plan area, will remain as deferred certification and will remain within the Commission's permit authority and subject to the requirements of the Coastal Act.

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

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. On December 5, 2022, the City Council of the City of San Diego adopted Resolution No. 315071 certifying the Final Environmental Impact Report for the Bella Mar Apartments (SCH No. 2022040642). An Errata to the 2022 Final EIR was approved by the City on March 28, 2023 to correct typographical errors.

The Commission finds that approval of the proposed land use and ordinance amendments, as submitted, would result in significant impacts under the meaning of the California Environmental Quality Act, including impacts relating to public access, public recreation opportunities, protection of lower-cost overnight accommodations, and protection for Environmentally Sensitive Habitat Areas, wetlands and water quality. However, as suggested to be modified, the changes to the City's Land Use and Implementation Plans would not result in significant impacts to the environment within the meaning of the California Environmental Quality Act. Therefore, the Commission finds that approval of the LCP amendment, as modified, will not result in any significant adverse environmental impacts.

Substantive File Documents

- Letter from Coastal Commission staff dated June 25, 2021
- Letter from Coastal Commission staff dated March 9, 2023
- Letter from Coastal Commission staff dated May 23, 2024
- Letter from the developer dated May 26, 2022
- Letter from the developer dated March 12, 2024
- Letter from Applicant's representative David A Goldberg dated July 20, 2023
- Letter from the City of San Diego dated June 11, 2023
- Letter from the City of San Diego dated March 29, 2024
- Letter from the City of San Diego dated May 10, 2024
- Special Study Report for the Otay Mesa-Nestor Special Study Area and the Bella Mar Project drafted by Recon and dated April 5, 2022
- Hydraulic Study prepared by Fuscoe Engineering and dated September 20, 2019
- Supplemental Hydraulic Analysis prepared by Chang Consultants and dated April 10, 2023
- Hydraulic Study & No-Rise drafted by Fuscoe Engineering and dated December 19, 2019
- Habitat Assessment and Western Burrowing Owl Focused Survey Results at the Bella Mar Survey, drafted by RECON and dated January 13, 2020
- Summary Assessment for Burrowing Owl for the Approximately 14.6 Bella Mar Project Site, drafted by Glenn Lukos Associated and dated December 1, 2021
- Habitat Assessment and Western Burrowing Owl Focused Survey Results at the Bella Mar Survey, drafted by RECON and dated September 1, 2022
- Conservation Easement No. 2010-0503415