

**Findings of Fact and
Statement of Overriding Considerations
for the Carlsbad Housing Element Implementation
and Public Safety Element Update Project**

SCH # 2022090339

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1 Introduction

The City of Carlsbad's certified 2015 General Plan and Climate Action Plan Environmental Impact Report ("2015 General Plan EIR") analyzed impacts from the 2015 General Plan Update and the city's Climate Action Plan. As part of its approval of the Comprehensive General Plan Update on Sept. 22, 2015, the City Council adopted City Council Resolution No. 2015-242, certifying Environmental Impact Report (EIR 13-02) and adopting Findings of Fact, a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program. Addendum #1 to the certified EIR was prepared for the 2020 Climate Action Plan Update, and was adopted by City Council Resolution No. 2020-146 on July 14, 2020. Addendum #2 to the certified EIR was prepared for the updated Housing Element by City Council Resolution No. 2021-073 on Aug. 6, 2021. Addendum #3 to the certified EIR was prepared for the Jefferson Mixed Use: Townhome and Professional Office Project by City Council Resolution No. 2022-256 on Nov. 8, 2022.

The 2015 General Plan EIR anticipated the addition of 6,798 new residential dwelling units by the horizon year of 2035. The 2015 General Plan EIR found less than significant impacts for aesthetics, agricultural resources, biological resources, cultural resources, energy, greenhouse gas emissions, geology and soils, hazards and hazardous materials, hydrology and water quality, land use, noise, population and housing, public services and recreation, tribal cultural resources, utilities and service systems, and wildfire; and significant and unavoidable impacts for air quality and transportation.

The proposed project consists of: amendments to the 2015 General Plan, including the Land Use and Community Design Element and Public Safety Element; revisions to Carlsbad Municipal Code (CMC) Title 21, the Zoning Ordinance; and updates to the Local Coastal Plan and several master and specific plans. The updates are necessary to implement the programs of the city's Housing Element Update 2021-2029 ("Housing Element"), which was adopted by the Carlsbad City Council on April 6, 2021, and to comply with changes in state law. Implementation of the rezone program under the proposed project would facilitate the development of 18 rezone sites. The development of these sites is estimated to result in a net increase of 3,295 new housing units to the city's housing stock compared to what is allowed today. A Supplemental EIR (SEIR) was prepared to analyze impacts associated with the proposed project.

The California Environmental Quality Act (CEQA) requires the City of Carlsbad (city) as the CEQA lead agency to: (1) make written findings when it approves a project for which an environmental impact report (EIR) was certified, and (2) identify overriding considerations for significant and unavoidable impacts identified in the SEIR. These findings explain how the city approaches the significant and potentially significant impacts identified in the SEIR prepared for the City of Carlsbad Housing Element Implementation and Safety Element Update Project ("proposed project"). These plans and amendments will be collectively referred to herein as the "proposed project." The statement of overriding considerations identifies economic, social, technological, and other benefits of the proposed project that override any significant environmental impacts that would result from the proposed project.

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As required under CEQA, the Final SEIR includes the Draft SEIR, comments and responses to comments on the Draft SEIR, and revisions to the Draft SEIR and proposed project. In addition to analyzing potential environmental effects and identifying necessary mitigation measures, the Final SEIR examined two alternatives to the proposed project—namely Alternative 1 (No Project Alternative) and Alternative 2 (Reduced Sites).

The Findings of Fact and Statement of Overriding Considerations set forth below (“Findings”) are presented for adoption by the City Council (Council) as the city’s findings under CEQA (Public Resources Code, Section 21000 et seq.) and the *CEQA Guidelines* (California Code of Regulations, Title 14, Section 15000 et seq.) relating to the proposed project. The Findings provide the written analysis and conclusions of this Council regarding the proposed project’s environmental impacts, mitigating policies, alternatives to the proposed project, and the overriding considerations, which in this Council’s view, justify approval of the proposed project, despite its environmental effects.

2 Project Description

2.1 Project Location

The proposed project boundaries coincide with Carlsbad’s city limits. Carlsbad is located on the coast of the Pacific Ocean in northwest San Diego County. In addition to the Pacific Ocean coastline along its western boundary, Carlsbad is surrounded by the cities of Oceanside to the north, Encinitas to the south, and Vista and San Marcos and unincorporated areas of San Diego County to the east. Along Carlsbad’s northern edge, urban development abuts Highway 78, with the highway and Buena Vista Lagoon acting as a boundary between Carlsbad and Oceanside. Similarly, Batiquitos Lagoon along the city’s southern edge acts as a boundary between Carlsbad and Encinitas. To the east, city boundaries are less distinctive, as a mix of hillsides and urban development are located adjacent to the cities of Vista and San Marcos and unincorporated county lands.

2.2 Project Characteristics

The proposed project consists of amendments to the Carlsbad General Plan adopted in 2015 (“2015 General Plan”), including the Land Use and Community Design Element and Public Safety Element, and revisions to Carlsbad Municipal Code (CMC) Title 21, the Zoning Ordinance. The updates are necessary to implement the programs of the city’s Housing Element Update 2021-2029 (“Housing Element”), which was adopted by the Carlsbad City Council on April 6, 2021, and comply with changes in state law.

A major component of the project is the change of land use and zoning designations on 18 sites (herein referred to as the “rezone sites”) throughout Carlsbad to facilitate residential development. These rezone sites, identified in the Housing Element and as further directed by the City Council, consist of single or multiple properties currently designated for low-density residential, commercial, industrial or public land uses. As proposed, the rezone sites would be partially or entirely redesignated to medium or high-density residential land use designations. This would require changes to the General Plan and Local Coastal Program land use maps, Zoning Ordinance and Zoning Map, and to various master and specific plans. The project proposes no development but involves land use changes that would facilitate development on the 18 rezone sites.

Overall, the project would:

- Amend the City of Carlsbad’s General Plan by updating the Land Use and Community Design Element to implement programs of the Housing Element, including facilitating residential development on 18 rezone sites identified in the Housing Element and as further directed by the City Council on Feb. 15, 2022.
- Consistent with the project’s General Plan changes, revise the Zoning Ordinance.

- Amend the Local Coastal Program as necessary to maintain consistency with the General Plan and Zoning Ordinance.
- Revise various master plans and specific plans as necessary to reflect amendments to the General Plan, Zoning Ordinance, and Local Coastal Program.
- Update the Public Safety Element to comply with State housing and safety legislation.

Implementation of the rezone program under the proposed project would facilitate the development of 18 rezone sites would result in an estimated net increase of 3,295 new housing units to the city's housing stock compared to what is allowed today. These new housing units would generate 8,260 new residents at buildout (see Section 4.11, *Population and Housing*, of the Draft SEIR for calculations). Combined with the available housing unit capacity under the existing General Plan (6,218 units), the 3,295 new units would result in a new housing capacity of 9,513 units or a total 56,516 units.

2.3 Project Objectives

The objectives of the proposed project are:

- Implement the Land Use and Community Design Element, Public Safety Element, and Zoning Ordinance, as amended by this project, to achieve adequate sites for all income groups;
- Provide adequate sites, zoned at appropriate densities and development standards, to facilitate residential development and affordability goals set forth in the 2021-2029 RHNA and as identified in the Housing Element.
- Pursue an infill strategy to foster compact development patterns, create walkable communities and preserve the natural environment and critical environmental areas;
- Expand housing choices to provide a diverse housing inventory to meet the changing needs of the Planning Area, which includes more affordable housing options;
- Update the Public Safety Element to comply with existing State laws.
- Ensure high level of public safety to protect the personal safety and welfare of people who live, work, and visit Carlsbad from crime, pollution, disasters, and other threats and emergencies.

3 Environmental Procedures

3.1 Lead Agency

Pursuant to *CEQA Guidelines* Section 15367, the city is the “lead agency” for the purpose of preparing the environmental review required by CEQA. The environmental review prepared by the city will be used by the Council and the Planning Commission in their respective decisions regarding the certification of the SEIR and the approval of the proposed project.

3.2 Environmental Impact Report

Pursuant to *CEQA Guidelines* Section 15163 et seq., the city prepared an SEIR to analyze the potential impacts of the proposed project on the environment. Pursuant to *CEQA Guidelines* Section 15163, the City of Carlsbad prepared this as a “Supplemental” EIR because only minor additions and changes would be necessary to make the previously certified 2015 General Plan EIR (SCH #2011011004) adequately apply to the project. An SEIR is the appropriate level of CEQA documentation for multiple reasons. First, the document incorporates updates to the *CEQA Guidelines* since 2015 and includes analysis of environmental issue areas added to the *CEQA Guidelines* and not included in the 2015 General Plan EIR. New environmental issue areas analyzed in this SEIR include energy, wildfire, vehicle miles traveled (VMT) and tribal cultural resources. Therefore, the City of Carlsbad has determined that the preparation of a SEIR is the appropriate approach to CEQA compliance. Consistent with *CEQA Guidelines* Section 15050, the 2015 General Plan EIR is incorporated into this document by reference.

The Final SEIR contains all of the information required by *CEQA Guidelines* Section 15132, including the Draft SEIR and the appendices to the Draft SEIR, all comment letters received, written responses to all comments, and revisions to the SEIR, and proposed project.

3.3 Public Participation

A Notice of Preparation (NOP) of an SEIR was published on September 14, 2022. The NOP and public comment period were advertised, and two public scoping meetings were held on September 26, 2022 (in-person) and September 28, 2022 (virtual). On October 13, 2022, the city issued an amended NOP extending the public comment period to October 26, 2022, and adding a third scoping meeting on October 19, 2022 (in-person). The scoping meetings were aimed at providing information about the proposed project to members of public agencies, interested stakeholders, residents, and community members. Awareness of the project and the first two scoping meetings was provided via mailers to all property owners and residents within a 600-foot radius of each housing site. Written comments were also received during the public comment period.

In accordance with CEQA, the Draft SEIR was distributed for a 45-day public review and comment period beginning on Friday, July 14, 2023, and ending on Monday, August 28, 2023. Copies of the Draft SEIR or notice of availability of the Draft SEIR were sent to various state, regional, and local

agencies, as well as interested organizations and individuals. In total, 39 comment letters were received from public agencies, organizations, and individuals.

The Final SEIR was completed and the city's comments were made available for review by October 12, 2023. Public hearings concerning certification of the Final SEIR were held by the City of Carlsbad Planning Commission and the City Council, at which interested agencies, organizations, and persons were given an opportunity to comment on the Final SEIR and the proposed project.

3.4 Record of Proceedings

For purposes of CEQA and the findings set forth below, the administrative record of the city's decision concerning certification of the Final SEIR for the proposed project include the following:

- The Draft SEIR (July 2023)
- The Final SEIR (October 2023)
- The appendices to the Draft SEIR and Final SEIR;
- All documents and other materials listed as references and/or incorporated by reference in the Draft SEIR and Final SEIR.
- All reports, maps, letters, and other documents prepared by the city's staff and consultants for the proposed project which are before the City Council as determined by the Clerk;
- All documents or other materials submitted by interested persons and public agencies in connection with the Draft SEIR and the Final SEIR; and
- The minutes, tape recordings, and verbatim transcripts, if any, of the public hearings held by the city concerning certification of the Final SEIR and approval of the proposed project.

All records and materials constituting the record of the proceedings upon which these Findings are based are available at the offices of the City of Carlsbad, located at 1635 Faraday Avenue, Carlsbad, CA 92008 (Public Resources Code Section 21081.6(a)(2)).

4 Overview and General Findings

The proposed project includes policies and programs that are designed to avoid or to minimize the potential environmental effects of future development. If significant impacts would occur despite conformance with the policies and programs of the proposed project, CEQA requires the city to identify feasible mitigation measures that would avoid or substantially lessen a project's potential significant impacts.

Table ES-1 of the Draft SEIR lists a summary of potential impacts and proposed mitigation measures that reduce the impacts. The Draft SEIR identifies significant and unavoidable effects on the environment that may occur as a result of implementation of the proposed project in the areas of air quality, cultural and tribal cultural resources, greenhouse gas emissions, noise, and transportation, which are described in detail below. Additionally, the Draft SEIR identifies significant impacts that can be mitigated to a less than significant impact that may occur as a result of the proposed project in the areas of air quality, biological resources, and noise are also describe in detail below.

Public Resources Code Section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would *substantially lessen* the significant environmental effects of such projects” (Emphasis added). The same statute states that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will *avoid or substantially lessen* such significant effects” (Emphasis added). Section 21002 goes on to state that “in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”

The mandate and principles set forth in Public Resources Code Section 21002 are implemented, in part, through the requirement that agencies must adopt findings concerning significant impacts before approving projects for which EIRs are required. (See Pub. Resources Code Section 21081, subd. (a); *CEQA Guidelines* Section 15091(a)). Specifically, *CEQA Guidelines* Section 15091(a) establishes the following requirements for findings:

(a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final SEIR. (*CEQA Guidelines* Section 15091(a)(1)).

This finding shall be referred to as “Finding (1).”

2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other

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agency or can and should be adopted by such other agency. (*CEQA Guidelines* Section 15091(a)(2)).

This finding shall be referred to as “Finding (2).”

3. Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR. (*CEQA Guidelines* Section 15091(a)(3)).

This finding shall be referred to as “Finding (3).”

Thus, for each significant environmental effect identified in an EIR for a proposed project, the approving agency must issue a written finding making one or more of the three permissible findings described above. These findings constitute the city’s best efforts to set forth the evidentiary and other basis for its decision to approve the proposed project in a manner consistent with the requirements of CEQA. The Facts in Support of Findings, as set forth in the following sections, state the city’s reasons for making each finding and the evidence in support of the findings.

5 Findings and Recommendations Regarding Significant Impacts Mitigated to a Less Than Significant Level

The Final SEIR examined the environmental impacts of the proposed project in the areas of aesthetics; air quality; biological resources; cultural and tribal cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, population and housing, public services and recreation, transportation, utilities and service systems, and wildfire. The Draft SEIR found potentially significant impacts which would be mitigated to a less than significant level in the areas of air quality, biological resources, noise, and tribal cultural resources.

In determining the significance of the environmental effects, it is important to emphasize that in issue areas when uncertainty surrounds impacts at a program level, the SEIR analysis uses a conservative approach to both assessment and conclusions.

The following subsections list each significant or potentially significant environmental impact by issue area in the order it appears in the Draft SEIR and includes proposed mitigation measures which reduce the impact to a less than significant level. A full documentation of the environmental analysis and conclusions is in the Final SEIR, which is incorporated by reference.

5.1 Air Quality

Impact AQ-1 **Similar to the development analyzed in the 2015 General Plan EIR, the proposed project would not conflict with or obstruct the San Diego Regional Air Quality Strategy or State Implementation Plan. This impact would be less than significant with mitigation incorporated.**

Facts in Support of Finding:

The project's potential impact associated with a conflict with the San Diego Regional Air Quality Strategy or State Implementation Plan would be mitigated to a level less than significant with the implementation of Mitigation Measure AQ-1 which would require a revised housing forecast to be reported to the San Diego Association of Governments (SANDAG) to ensure that any revisions to the population and employment projections used by the San Diego County Air Pollution Control District (SDAPCD) in updating the Regional Air Quality Strategy (RAQS) and the State Implementation Plan (SIP) will accurately reflect anticipated growth due to the proposed project.

Mitigation Measures:

MM AQ-1: Housing Forecast Revisions

Prior to the next update of the Regional Housing Needs Assessment and within six months of the certification of the Final SEIR, the City Planner shall provide a revised housing forecast to SANDAG to ensure that any revisions to the population and employment projections used by SDAPCD in updating the RAQS and the SIP will accurately reflect anticipated growth due to the proposed project.

Findings:

Based upon the Final SEIR and the entire record before the City Council, the council finds that implementation of mitigation measure AQ-1, which would require a revised housing forecast to be reported to SANDAG, would reduce impacts associated with obstruction of the San Diego RAQS or SIP. Pursuant to *CEQA Guidelines* Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the proposed project which would avoid or substantially lessen the significant environmental effect identified in the Final SEIR as Impact AQ-1. Therefore, impacts would be less than significant with mitigation. **(Finding (1); CEQA Guidelines Section 15091(a)(1)).**

Impact AQ-3 **Development facilitated by the proposed project would not expose offsite sensitive receptors to substantial pollution concentrations. However, the project would site sensitive receptors within close proximity to sources of TAC emissions. This impact would be less than significant with mitigation incorporated.**

Facts in Support of Finding:

Implementation of Mitigation Measures AQ-3 and AQ-4 would reduce impacts related to potential health risks associated with exposure of sensitive receptors to substantial pollutant concentrations of diesel particulate matter (DPM) and toxic air contaminants (TACs). Mitigation Measure AQ-3 would ensure that construction activities would not result in exposure of offsite

sensitive receptors to substantial TAC concentrations. Mitigation Measure AQ-4 would ensure that new development facilitated by the project would not expose onsite sensitive receptors to substantial air pollutant concentrations. Implementation of these mitigation measures would reduce impacts from DPM and TACs to a less than significant level.

Mitigation Measures:

MM AQ-3: Construction Health Risk Assessment

For individual projects (excluding accessory dwelling units (ADUs), single-family residences, and duplexes) where construction activities would occur within 1,000 feet of sensitive receptors, would last longer than two months, and would not utilize a fleet comprised of strictly U.S. Environmental Protection Agency (EPA) rated Tier 4 engines and/or alternative fuel construction equipment, it is required that a construction health risk assessment (HRA) be performed.¹ The construction health risk shall be performed by a qualified air quality consultant coordinated through the City. The HRA shall be conducted following the Office of Environmental Health Hazards Association's (OEHHA) 2015 Health Risk Guidelines (OEHHA 2015) and SDAPCD guidelines to determine potential risk and compare the risk to the following SDAPCD thresholds:

- Increased cancer risk of > 10.0 in a million;
- Increased non-cancer risk of > 1.0 Hazard Index (Chronic or Acute); or

If risk exceeds the thresholds, measures such as requiring the use of Tier 4 and/or alternative fuel construction equipment are recommended to reduce the risk to appropriate levels. The incorporation of Tier 4 and/or alternative fuel construction equipment reduces the emissions of DPM from construction activities and therefore reduces the potential risk to nearby sensitive receptors.

MM AQ-4: Operational Health Risk Assessment

Consistent with the provisions contained in the *California Air Resources Board Air Quality and Land Use Handbook*, future development projects occurring on Site 2, Site 5, or Site 16 under the proposed project should implement the following:

Project applicants shall retain a qualified air quality consultant to prepare a health risk assessment (HRA) in accordance with the California Air Resources Board (CARB) and the OEHHA requirements to determine the exposure of nearby sensitive receptors to emission sources resulting from the project. The HRA shall be submitted to the City of Carlsbad for review and approval. Project applicants shall implement the approved HRA recommendations to any nearby sensitive receptor, if any. Such measures may include, but are not limited to:

¹ Sensitive receptors are that segment of the public most susceptible to respiratory distress as a result of poor air quality, such as children under 14, persons over 65, persons engaged in strenuous work or exercise, and people with pre-existing cardiovascular and chronic respiratory diseases. Locations of sensitive receptors include schools, parks and playgrounds, hospitals, day cares, assisted living facilities, and residential communities (CARB 2005)

- Install, operate, and maintain in good working order a central heating and ventilation system or other air take system in the building of a sensitive receptor that would be impacted by the project, or in each individual residential unit, that meets the efficiency standard of the minimum efficiency reporting value of 13. The heating and ventilation system should include the following features: installation of a high-efficiency filter and/or carbon filter to minimize particulate and other airborne chemical matter from entering the building. Either high-efficiency particulate absorption filters or American Society of Heating, Refrigeration, and Air-Conditioning Engineers 85 percent supply filters should be used.
- Ensure that positive pressure occurs in the building.
- Achieve a performance standard of at least one air exchange per hour of fresh outside filtered air.
- Achieve a performance standard of at least four air exchanges per hour of recirculation.
- Achieve a performance standard of 0.25 air exchanges per hour of unfiltered infiltration if the building is not positively pressurized.

Findings:

Based upon the Final SEIR and the entire record before the City Council, the council finds that implementation of mitigation measure AQ-3 and AQ-4, which would require construction and operational health risk assessments to be performed for future development projects, would reduce impacts associated with sensitive receptors' exposure to pollutants. Pursuant to *CEQA Guidelines* Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the proposed project which would avoid or substantially lessen the significant environmental effect identified in the Final SEIR as Impact AQ-3. Therefore, impacts would be less than significant with mitigation. **(Finding (1); CEQA Guidelines Section 15091(a)(1)).**

5.2 Biological Resources

Impact BIO-1 **The proposed project could potentially adversely impact special-status species or their habitat. Local special-status species and nesting birds could occur within the sites during potential construction periods and may potentially be affected by construction activity. This impact would be less than significant with mitigation incorporated.**

Facts in Support of Finding:

Implementation of mitigation measures BIO-1 and BIO-2 would reduce potential impacts to special-status and/or locally important species to a less than significant level, and assure compliance with the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (CFG) Section 3503, by requiring a biological study to document the presence or absence of special-status species on a project specific basis and determining measures to address impacts such as avoidance, minimization, restoration, or compensation to special-status should they be present, and by ensuring that active nests are identified and as necessary avoided.

Mitigation Measures:

MM BIO-1: Biological Resources Technical Report

For development projects at Sites 1- 4, 6-9, 17-19 that require vegetation removal, ground disturbance of unpaved areas, parking or staging of equipment or material on unpaved areas, access routes on unpaved areas, or any rehabilitation or construction staging within 100 feet of the property line (except for landscaped developed areas) that contain or have the potential to support special-status species, sensitive habitat, or suitable habitat to support special-status species, prior to the issuance of a grading permit, the applicant shall retain a qualified biologist to conduct a biological resources reconnaissance of the site, consistent with the requirements of General Plan Policy 4-P.9 and the HMP Guidelines for Biological Studies. All future projects shall be consistent with the HMP and the technical report shall include a consistency analysis, including compliance with the narrow endemic standards (MHCP Volume 1, Section 3.7 No. 5, and HMP Section D-6 for TLB, VP species) and special species standards (HMP Section D-6 for LBV and Harb Dun Skipper). The Biological Resources Technical Report shall address the presence/absence of suitable habitat for special-status plant and wildlife species, and any additional protocol surveys that may be needed to determine the potential presence/absence of special status species, sensitive plant communities and wetlands, and other special status biological resources protected under the HMP. The report will further propose avoidance, minimization, and mitigation measures, consistent with HMP requirements, necessary to reduce potential impacts to special-status biological resources to less than significant.

MM BIO-2: Pre-Construction Bird Surveys, Avoidance, and Notification

If construction activities are initiated during the bird nesting season (February 1 – August 31) involving removal of vegetation or other nesting bird habitat, including abandoned structures and other man-made features, a pre-construction nesting bird survey shall be conducted no more than three days prior to initiation of ground disturbance and vegetation removal activities. The nesting bird pre-construction survey shall be conducted on foot and shall include a 300-foot buffer around the construction site. The survey shall be conducted by a biologist familiar with the identification of avian species known to occur in southern California coastal communities (i.e., qualified biologist). If nests are found, an avoidance buffer shall be determined by a qualified biologist in coordination with the city. The avoidance buffer width will depend upon the species, the proposed work activity, and existing disturbances associated with land uses outside of the site, which shall be demarcated by the biologist with bright orange construction fencing, flagging, construction lathe, or other means to demarcate the boundary. All construction personnel shall be notified as to the existence of the buffer zone and to avoid entering the buffer zone during the nesting season. No ground disturbing activities shall occur within the buffer until the biologist has confirmed that breeding/nesting is completed, and the young have fledged the nest. Encroachment into the buffer shall occur only at the discretion of the qualified biologist on the basis that the encroachment will not be detrimental to an active nest. A report summarizing the pre-construction survey(s) shall be prepared by a qualified biologist and shall be submitted to the city prior to the commencement of construction activities.

Findings:

Based upon the Final SEIR and the entire record before the City Council, the council finds that implementation of mitigation measures BIO-1 and BIO-2, which would require a biological resources technical report and pre-construction bird surveys and avoidance for future development, would reduce impacts to special status species and their habitats. Pursuant to *CEQA Guidelines* Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the proposed project which would avoid or substantially lessen the significant environmental effect identified in the Final SEIR as Impact BIO-1. Therefore, impacts would be less than significant with mitigation. **(Finding (1); CEQA Guidelines Section 15091(a)(1)).**

Impact BIO-2 Development resulting from the project could potentially adversely impact areas that support sensitive natural communities and riparian habitats. This impact would be less than significant with mitigation incorporated.

Facts in Support of Finding:

Implementation of Measures BIO-1 (listed under Impact BIO-1), BIO-3, and BIO-4 would reduce potential impacts to riparian and sensitive habitats to a less than significant level by ensuring that potential impacts are avoided, minimized, restored, or compensated for prior to obtaining a grading permit.

Mitigation Measures:

MM BIO-1 as described above under Impact BIO-1 would be applicable.

MM BIO-3: Habitat Buffers

For projects where native habitat may be present (specifically Sites 1, 2, 4, 6, 7, 8, 9, 17, 18, and 19) and if development cannot avoid native habitat, prior to the issuance of a grading permit, a qualified biologist shall be retained by the project applicant to conduct a vegetation community survey of the site. The qualified biologist shall map the extent of vegetation communities on the project site plus 100 feet and report on the findings. This survey and report can be combined with BIO-1, Biological Resources Technical Report. The report shall confirm potential impacts to riparian and wetland habitat have been sufficiently avoided or minimized to reduce impacts to less than significant. Housing development at any of the sites containing riparian or wetland habitat shall adhere to the HMP Guidelines for Riparian and Wetland Buffers. Housing developments at any of the sites within the coastal zone shall adhere to the upland and wetland buffer requirements pursuant to the HMP coastal zone standards. The Biological Resources technical report shall include a figure showing all required upland, riparian and wetland buffers.

MM BIO-4: Habitat Impact Mitigation

For projects that will require mitigation through restoration of sensitive upland natural communities (e.g. coastal sage scrub) or wetland habitat, including streams, riparian, and other water bodies, specifically Sites 1, 2, 4, 6, 8, 9, 17, 18, and 19, mitigation through restoration, creation, or enhancement of in-kind habitats shall be implemented in accordance with ratios identified in the HMP (Table 11 and coastal zone standards Section D-7) and an approved mitigation plan. Prior to the issuance of grading permits, the applicant shall prepare and submit a

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Conceptual Restoration/Mitigation Plan (CRMP) consistent with the HMP Components of a Conceptual Restoration/Mitigation Plan and Guidelines for Habitat Creation and Restoration. The CRMP will provide the framework for compensating for impacts to sensitive riparian and coastal sage scrub habitat at a ratio consistent with HMP Table 11 and coastal zone standards.

Findings:

Based upon the Final SEIR and the entire record before the City Council, the council finds that implementation of mitigation measures BIO-3 and BIO-4, which would establish habitat buffers and require a CRMP to be created for projects that will require mitigation through restoration of sensitive upland natural communities, would reduce impacts to areas that support sensitive natural communities and riparian habitats. Pursuant to *CEQA Guidelines* Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the proposed project which would avoid or substantially lessen the significant environmental effect identified in the Final SEIR as Impact BIO-2. Therefore, impacts would be less than significant with mitigation. **(Finding (1); CEQA Guidelines Section 15091(a)(1)).**

Impact BIO-3 Development resulting from the project could potentially adversely impact federally protected wetlands. This impact would be less than significant with mitigation incorporated.

Facts in Support of Finding:

Implementation of Measures BIO-1, BIO-3, BIO-4, and BIO-5 would reduce potential impacts to wetlands and protected waters to a less than significant level by ensuring that potential impacts are avoided, minimized, restored, or compensated for prior to obtaining a grading permit.

Mitigation Measures:

MM BIO-1, MM BIO-3, and MM BIO-4, as described above under Impact BIO-1 and Impact BIO-2 would be applicable.

MM BIO-5: Agency Coordination

For projects on sites within potential jurisdictional features, including Sites 1, 2, 4, 9, and 17, permits, agreements, and/or water quality certifications from applicable state and federal agencies regarding compliance with state and federal laws governing work within jurisdictional features are required for submission to the city of Carlsbad with the grading permit application for the project. The project applicant shall satisfy all mitigation requirements of the above agencies. The applicant shall provide such permits and/or agreements prior to issuance of a grading permit.

Findings

Based upon the Final SEIR and the entire record before the City Council, the council finds that implementation of mitigation measures BIO-1, BIO-3, BIO-4 (discussed under Impact BIO-1 and BIO-2 above), and BIO-5, which requires agency coordination for projects on sites within potential jurisdictional features, would reduce impacts to federally protected wetlands. Pursuant to *CEQA Guidelines* Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the proposed project which would avoid or substantially lessen the significant environmental

effect identified in the Final SEIR as Impact BIO-3. Therefore, impacts would be less than significant with mitigation. **(Finding (1); CEQA Guidelines Section 15091(a)(1)).**

Impact BIO-4 **Development under the proposed project would be primarily concentrated on sites in urban areas of Carlsbad that have been previously developed and disturbed, rather than adjacent to native habitats and potential wildlife corridors. Development under the project could result in significant impacts to potential local wildlife movement along watercourses such as Buena Vista Creek and Agua Hedionda Creek. This impact would be less than significant with mitigation incorporated.**

Facts in Support of Finding:

Implementation of mitigation measures BIO-1, BIO-3, and BIO-4 would reduce potential impacts to wildlife movement and nursery sites, to less than significant by requiring a project-specific biological evaluation to determine measures to address impacts such as avoidance, minimization, restoration, or compensation.

Mitigation Measures:

Mitigation Measures BIO-1, BIO-3, and BIO-4 which are discussed above under Impact BIO-1 and BIO-2, would be required.

Findings:

Based upon the Final SEIR and the entire record before the City Council, the council finds that implementation of mitigation measures BIO-1, BIO-3, and BIO-4, which would require a biological resources technical report, establish habitat buffers, and require a CRMP to be created for projects that will require mitigation through restoration of sensitive upland natural communities, would reduce impacts to local wildlife movement along watercourses. Pursuant to *CEQA Guidelines* Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the proposed project which would avoid or substantially lessen the significant environmental effect identified in the Final SEIR as Impact BIO-4. Therefore, impacts would be less than significant with mitigation. **(Finding (1); CEQA Guidelines Section 15091(a)(1)).**

Impact BIO-5 **Development under the proposed project could potentially adversely impact areas that support protected trees or tree canopies. This impact would be less than significant with mitigation incorporated.**

Facts in Support of Finding:

Implementation of Mitigation Measure BIO-6 would assure consistency with local policy protecting trees and shrubs by requiring a project-specific tree survey to determine measures to address impacts such as avoidance, minimization, restoration, or compensation. Impacts would be mitigated to a less than significant level.

Mitigation Measures:

MM BIO-6: Protected Tree and Tree Canopy Survey

Prior to the issuance of a grading permit, a tree survey shall be conducted by a certified arborist prior to project construction to tag and assess all trees subject to the city's Trees and Shrubs Ordinance (Municipal Code Title 11.12) and/or CFMP. A city arborist will inspect the property and recommend approving or denying the application in a written report submitted to the city manager. The city shall post a letter of notification and a non-removable marking upon the subject tree a minimum of 30 days prior to its removal. The letter will be posted in a prominent location, visible from a public street and will include, the location of the tree, the reason for the trees removal, the date of the scheduled removal, the species of tree to be replanted, the size of the tree to be replanted, the date by which an appeal must be made to the parks and recreation commission, and a description of the appeal process.

The following measures shall be implemented in addition to those required under the city's permits required for tree removal and maintenance ordinance Guidelines (Municipal Code Title 11.12.090) to avoid and/or compensate for potential indirect impacts to preserved sensitive natural communities and protected trees within Carlsbad before, during, and following construction activities.

Pre-Construction

- **Fencing.** Protective fencing at least three feet high with signs and flagging shall be erected around all preserved sensitive natural communities where adjacent to proposed vegetation clearing and grubbing, grading, or other construction activities. The protective fence shall be installed at a minimum of five feet beyond the tree canopy dripline. The intent of protection fencing is to prevent inadvertent limb/vegetation damage, root damage and/or compaction by construction equipment. The protective fencing shall be depicted on all construction plans and maps provided to contractors and labeled clearly to prohibit entry, and the placement of the fence in the field shall be approved by a qualified biologist prior to initiation of construction activities. The contractor shall maintain the fence to keep it upright, taut and aligned at all times. Fencing shall be removed only after all construction activities are completed.
- **Pre-Construction Meeting.** A pre-construction meeting shall be held between all site contractors and a registered consulting arborist and/or a qualified biologist. All site contractors and their employees shall provide written acknowledgement of their receiving sensitive natural community protection training. This training shall include, but shall not be limited to, the following information: (1) the location and marking of protected sensitive natural communities; (2) the necessity of preventing damage to these sensitive natural communities; and (3) a discussion of work practices that shall accomplish such.

During Construction

- **Fence Monitoring.** The protective fence shall be monitored regularly (at least weekly) during construction activities to ensure that the fencing remains intact and functional, and that no encroachment has occurred into the protected natural community; any repairs to the fence or encroachment correction shall be conducted immediately.

- **Equipment Operation and Storage.** Contractors shall avoid using heavy equipment around the sensitive natural communities. Operating heavy machinery around the root zones of trees would increase soil compaction, which decreases soil aeration and, subsequently, reduces water penetration into the soil. All heavy equipment and vehicles shall, at minimum, stay out of the fenced protected zones, unless where specifically approved in writing and under the supervision of a registered consulting arborist and/or a qualified biologist.
- **Materials Storage and Disposal.** Contractors shall not store or discard any construction materials within the fenced protected zones and shall remove all foreign debris within these areas. The contractors shall leave the duff, mulch, chips, and leaves around the retained trees for water retention and nutrient supply. Contractors shall avoid draining or leakage of equipment fluids near retained trees. Fluids such as gasoline, diesel, oils, hydraulics, brake and transmission fluids, paint, paint thinners, and glycol (anti-freeze) shall be disposed of properly. The contractors shall ensure that equipment be parked at least 50 feet, and that equipment/vehicle refueling occur at least 100 feet, from fenced protected zones to avoid the possibility of leakage of equipment fluids into the soil.
- **Grade Changes.** Contractors shall ensure that grade changes, including adding fill, shall not be permitted within the fenced protected zone without special written authorization and under supervision by a registered consulting arborist and/or a qualified biologist. Lowering the grade within the fenced protected zones could necessitate cutting main support and feeder roots, thus jeopardizing the health and structural integrity of the tree(s). Adding soil, even temporarily, on top of the existing grade could compact the soil further, and decrease both water and air availability to the tree roots. Contractors shall ensure that grade changes made outside of the fenced protected zone shall not create conditions that allow water to pond.
- **Trenching.** Except where specifically approved in writing beforehand, all trenching shall be outside of the fenced protected zone. Roots primarily extend in a horizontal direction forming a support base to the tree similar to the base of a wineglass. Where trenching is necessary in areas that contain roots from retained trees, contractors shall use trenching techniques that include the use of either a root pruner (Dosko root pruner or equivalent) or an Air-Spade to limit root impacts. An International Society of Arboriculture (ISA) certified arborist or American Society of Consulting Arborists (ASCA) registered consulting arborist shall ensure that all pruning cuts shall be clean and sharp, to minimize ripping, tearing, and fracturing of the root system. Root damage caused by backhoes, earthmovers, dozers, or graders is severe and may ultimately result in tree mortality. Use of both root pruning and Air-Spade equipment shall be accompanied only by hand tools to remove soil from trench locations. The trench shall be made no deeper than necessary.
- **Erosion Control.** Appropriate erosion control best management practices (BMPs) shall be implemented to protect preserved sensitive natural communities during and following project construction. Erosion control materials shall be certified as weed free.
- **Inspection.** An ISA certified arborist or ASCA registered consulting arborist shall inspect the preserved trees adjacent to grading and construction activity on a monthly basis for the duration of the grading and construction activities. A report summarizing site conditions, observations, tree health, and recommendations for minimizing tree damage shall be submitted by the registered consulting arborist following each inspection.

Post-construction

- **Mulch.** The contractors shall ensure that the natural duff layer under all trees adjacent to construction activities shall be maintained. This would stabilize soil temperatures in root zones, conserve soil moisture, and reduce erosion. The contractors shall ensure that the mulch be kept clear of the trunk base to avoid creating conditions favorable to the establishment and growth of decay causing fungal pathogens. Should it be necessary to add organic mulch beneath retained oak trees, packaged or commercial oak leaf mulch shall not be used as it may contain root fungus. Also, the use of redwood chips shall be avoided as certain inhibitive chemicals may be present in the wood. Other wood chips and crushed walnut shells can be used, but the best mulch that provides a source of nutrients for the tree is its own leaf litter. Any added organic mulch added by the contractors shall be applied to a maximum depth of 4 inches where possible.
- **Watering Adjacent Plant Material.** All installed landscaping plants near the preserved sensitive natural communities shall require moderate to low levels of water. The surrounding plants shall be watered infrequently with deep soaks and allowed to dry out in-between, rather than frequent light irrigation. The soil shall not be allowed to become saturated or stay continually wet, nor should drainage allow ponding of water. Irrigation spray shall not hit the trunk of any tree. The contractors shall maintain a 30-inch dry-zone around all tree trunks. An above ground micro-spray irrigation system shall be used in lieu of typical underground pop-up sprays.
- **Monitoring.** An ISA certified arborist or ASCA registered consulting arborist shall inspect the trees preserved on the site adjacent to construction activities for a period of two years following the completion of construction. Monitoring visits shall be completed quarterly, totaling eight visits. Following each monitoring visit, a report summarizing site conditions, observations, tree health, and recommendations for promoting tree health shall be submitted to the city. Additionally, any tree mortality shall be noted and any tree dying during the two-year monitoring period shall be replaced at a minimum 3:1 ratio on-site in coordination with the city.

Findings:

Based upon the Final SEIR and the entire record before the City Council, the council finds that implementation of mitigation measure BIO-6, which requires a tree survey to be conducted, and measures to be implemented prior to, during, and following construction, would reduce impacts to protected trees. Pursuant to *CEQA Guidelines* Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the proposed project which would avoid or substantially lessen the significant environmental effect identified in the Final SEIR as Impact BIO-5. Therefore, impacts would be less than significant with mitigation. **(Finding (1); CEQA Guidelines Section 15091(a)(1)).**

Impact BIO-6 **The proposed project (specifically Sites 4, 6, 9, and 17) may conflict with an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plans. This impact would be less than significant with mitigation incorporated.**

Facts in Support of Finding:

Implementation of mitigation measures BIO-1, BIO-2, BIO-3, BIO-4 (listed under Impact BIO-1, Impact BIO-2) as well as mitigation measures BIO-7 and BIO-8 would reduce any conflicts with Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plans to a less than significant level.

Mitigation Measures:

MM BIO-7: HMP Minor Amendments

Prior to project approval at Site 4, 6, 7, 9 and 17, each project shall be analyzed for consistency with the HMP in coordination with responsible agencies including CDFW and USFWS. Development may not occur within an Existing or Proposed Hardline. Any revisions to the HMP hardline boundary to allow for development on these sites shall require a HMP minor amendment, to be processed as an Equivalency Finding. Such boundary revisions must not involve any revisions the HMP operations or implementation, produce any adverse effects on the environment that are new or significantly different from those previously analyzed, result in additional take not previously analyzed, or reduce the acreage or quality of the habitat within the HMP. Any loss of HMP hardline shall be replaced with equal or greater acres of hardline, adjacent to existing hardline elsewhere in the city, and preserved and managed in accordance with the HMP. Any development within the Standards Area portion of Site 4 shall require a HMP Minor Amendment, to be processed as a Consistency Finding, which requires consistency with the HMP Planning Standards for Local Facilities Management Zone 15.

MM BIO-8: HMP Adjacency Standards

Projects within sites 1, 2, 4, 6, 7, 8, 9, 17, 18, 19 shall evaluate potential indirect impacts, such as wildfire, erosion, invasive species, unauthorized access, or predators, to habitat and species adjacent to the proposed development. Projects shall be consistent with the HMP Adjacency Standards (Section F-3).

Findings:

Based upon the Final SEIR and the entire record before the City Council, the council finds that implementation of mitigation measures BIO-1, BIO-2, BIO-3, BIO-4 (discussed above under Impact BIO-1, BIO-2), BIO-7 and BIO-8, which requires development on Sites 4, 6, 7, 9, and 17 to be analyzed for consistency with the HMP and for development on Sites 1, 2, 4, 6, 7, 8, 9, 17, 18, 19 to be evaluated for consistency with HMP Adjacency Standards, would reduce impacts related to an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plans. Pursuant to *CEQA Guidelines* Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the proposed project which would avoid or substantially lessen the significant environmental effect identified in the Final SEIR as Impact BIO-1. Therefore, impacts would be less than significant with mitigation. **(Finding (1); CEQA Guidelines Section 15091(a)(1)).**

5.3 Noise

Impact NOI-3 **Project development would not involve operational activities that would result in substantial vibration levels. However, use of pile driving or a vibratory roller could potentially generate vibration exceeding thresholds for buildings or structures susceptible to damage (e.g., historic structures). This impact would be less than significant with mitigation.**

Facts in Support of Finding:

Based upon the Final SEIR and the entire record before the City Council, the council finds that implementation of mitigation measure NOI-2, which requires the creation of a vibration control plan, would reduce impacts related to construction vibration to a less than significant level.

Mitigation Measures:

MM NOI-2: Vibration Control Plan

For construction activities involving vibratory rollers within 50 feet of a structure or pile drivers (impact or sonic) within 140 feet of a structure, the applicant shall prepare a Vibration Control Plan prior to the commencement of construction activities. The Vibration Control Plan shall be prepared by a licensed structural engineer and shall include methods required to minimize vibration, including, but not limited to:

- Alternative installation methods for pile driving (e.g., pile cushioning, drilled piles, cast-in-place systems) within 140 feet of a building to reduce impacts associated with seating the pile
- Vibration monitoring prior to and during pile driving operations occurring within 140 feet of a building
- Use of rubber-tired equipment rather than metal-tracked equipment
- Avoiding the use of vibrating equipment when allowed by best engineering practices

The Vibration Control Plan shall include a pre-construction survey letter establishing baseline conditions at potentially affected extremely fragile buildings/historical resources and/or residential structures. The survey letter shall determine conditions that exist prior to the commencement of construction activities for use in evaluating potential damages caused by construction. Fixtures and finishes susceptible to damage shall be documented photographically and in writing prior to construction. The survey letter shall provide a shoring design to protect such buildings and structures from potential damage. At the conclusion of vibration causing activities, the qualified structural engineer shall issue a follow-up letter describing damage, if any, to impacted buildings and structures. The letter shall include recommendations for any repair, as may be necessary, in conformance with the Secretary of the Interior Standards. Repairs shall be undertaken and completed by the contractor and monitored by a qualified structural engineer in conformance with all applicable codes including the California Historical Building Code (Part 8 of Title 24).

A Statement of Compliance signed by the applicant and owner shall be submitted to the city's Building and Safety Division at plan check and prior to the issuance of any permit. The Vibration Control Plan, prepared as outlined above shall be documented by a qualified structural engineer, and shall be provided to the city upon request.

Findings:

Pursuant to *CEQA Guidelines* Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the proposed project which would avoid or substantially lessen the significant environmental effect identified in the Final SEIR as Impact NOI-3. Therefore, impacts would be less than significant with mitigation. **(Finding (1); *CEQA Guidelines* Section 15091(a)(1)).**

5.4 Cultural and Tribal Cultural Resources

Impact CUL-4 **Development facilitated by the proposed project could adversely impact tribal cultural resources. Consultation with Native American Tribal representatives is ongoing. This impact would be less than significant with adherence to the Carlsbad Cultural Resource Guidelines and with implementation of mitigation.**

Facts in Support of Finding:

The project's potential impacts to tribal cultural resources would be mitigated to a level less than significant with the implementation of Mitigation Measure CUL-1 which sets forth procedures for consultation with Native American Tribal representatives and treatment if identified resources.

Mitigation Measures:

MM CUL-1: Tribal Cultural Resources

Projects subject to discretionary actions shall comply with the city's Tribal, Cultural, and Paleontological Resources Guidelines. For ministerial projects, the city shall provide Traditionally and Culturally Affiliated Luiseño tribes ("TCA Tribe") with early notification and the opportunity to consult on development applications and identify and assess impacts to tribal and cultural resources. Further, before commencement of any ground-disturbing activities, the project developer shall comply with the following requirements to ensure the appropriate response to the presence of any tribal and cultural resources:

- a. Retain the services of a qualified archaeologist who shall be on-site for ground-disturbing activities. In the event cultural material is encountered, the archaeologist is empowered to temporarily divert or halt grading to allow for coordination with the Luiseño Native American monitor and to determine the significance of the discovery. The archaeologist shall follow all standard procedures for cultural materials that are not Tribal Cultural Resources.
- b. Enter into a Pre-Excavation Agreement, otherwise known as a Tribal Cultural Resources Treatment and Tribal Monitoring Agreement, with a TCA tribe. This agreement will address provision of a Luiseño Native American monitor and contain provisions to address the

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proper treatment of any tribal cultural resources and/or Luiseño Native American human remains inadvertently discovered during the course of the project. The Agreement will outline the roles and powers of the Luiseño Native American monitors and the archaeologist and may include the following provisions.

- i. A Luiseño Native American monitor shall be present during all ground-disturbing activities. Ground disturbing activities may include, but are not limited to, archaeological studies, geotechnical investigations, exploratory geotechnical investigations/borings for contractor bidding purposes, clearing, grubbing, trenching, excavation, preparation for utilities and other infrastructure, and grading activities.
- ii. Any and all uncovered artifacts of Luiseño Native American cultural importance shall be returned to the San Luis Rey Band of Mission Indians or other Luiseño Tribe, and/or the Most Likely Descendant, if applicable, and not be curated, unless ordered to do so by a federal agency or a court of competent jurisdiction.
- iii. The Luiseño Native American monitor shall be present at the project's pre-construction meeting to consult with grading and excavation contractors concerning excavation schedules and safety issues, as well as to consult with the archaeologist PI (principal investigator) concerning the proposed archaeologist techniques and/or strategies for the project.
- iv. Luiseño Native American monitors and archaeological monitors shall have joint authority to temporarily divert and/or halt construction activities. If tribal cultural resources are discovered during construction, all earthmoving activity within and around the immediate discovery area must be diverted until the Luiseño Native American monitor and the archaeologist can assess the nature and significance of the find.
- v. If a significant tribal cultural resource(s) and/or unique archaeological resource(s) are discovered during ground-disturbing activities for this project, the San Luis Rey Band of Mission Indians or other Luiseño tribe shall be notified and consulted regarding the respectful and dignified treatment of those resources. Pursuant to California Public Resources Code Section 21083.2(b) avoidance is the preferred method of preservation for archaeological and tribal cultural resources. If, however, the Applicant is able to demonstrate that avoidance of a significant and/or unique cultural resource is infeasible and a data recovery plan is authorized by the City of Carlsbad as the lead agency, the San Luis Rey Band of Mission Indians or other Luiseño tribe shall be consulted regarding the drafting and finalization of any such recovery plan.
- vi. When tribal cultural resources are discovered during the project, if the archaeologist collects such resources, a Luiseño Native American monitor must be present during any testing or cataloging of those resources. If the archaeologist does not collect the tribal cultural resources that are unearthed during the ground disturbing activities, the Luiseño Native American monitor may, at their discretion, collect said resources and provide them to the San Luis Rey Band of Mission Indians or other Luiseño tribe for dignified and respectful treatment in accordance with their cultural and spiritual traditions.

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- vii. If suspected Native American human remains are encountered, California Health and Safety Code Section 7050.5(b) states that no further disturbance shall occur until the San Diego County Medical Examiner has made the necessary findings as to origin. Further, pursuant to California Public Resources Code Section 5097.98(b) remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. Suspected Native American remains shall be examined in the field and kept in a secure location at the site. A Luiseño Native American monitor shall be present during the examination of the remains. If the San Diego County Medical Examiner determines the remains to be Native American, NAHC must be contacted by the Medical Examiner within 24 hours. The NAHC must then immediately notify the “Most Likely Descendant” about the discovery. The Most Likely Descendant shall then make recommendations within 48 hours and engage in consultation concerning treatment of remains as provided in Public Resources Code 5097.98.
 - viii. In the event that fill material is imported into the project area, the fill shall be clean of tribal cultural resources and documented as such. Commercial sources of fill material are already permitted as appropriate and will be culturally sterile. If fill material is to be utilized and/or exported from areas within the project site, then that fill material shall be analyzed and confirmed by an archaeologist and Luiseño Native American monitor that such fill material does not contain tribal cultural resources.
 - ix. No testing, invasive or non-invasive, shall be permitted on any recovered tribal cultural resources without the written permission of the San Luis Rey Band of Mission Indians or other Luiseño tribe.
 - x. Prior to the completion of project construction, a monitoring report and/or evaluation report, if appropriate, which describes the results, analysis, and conclusions of the monitoring program shall be submitted by the Project Archaeologist, along with the Luiseño Native American monitor’s notes and comments, to the City of Carlsbad for approval, and shall be submitted to the South Coastal Information Center. Said report shall be subject to confidentiality as an exception to the Public Records Act and will not be available for public distribution.
- c. Furthermore, the Agreement may include additional measures mutually agreed upon by the project developer, city, and TCA Tribe such as evaluation of the project site’s pre-construction conditions for the presence or potential presence of TCRs as well as other measures tailored to and deemed necessary for the specific project.

Findings

Based upon the Final SEIR and the entire record before the City Council, the council finds that implementation of mitigation measure CUL-1, which would require coordination with Native American Tribal representatives, would reduce impacts to tribal cultural resources. Pursuant to *CEQA Guidelines* Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the proposed project which would avoid or substantially lessen the significant environmental effect identified in the Final SEIR as Impact CUL-4. Therefore, impacts would be less than significant with mitigation. **(Finding (1); CEQA Guidelines Section 15091(a)(1)).**

6 Findings and Recommendations Regarding Significant Impacts

The Final SEIR examined the environmental impacts of the proposed project in the areas of aesthetics; air quality; biological resources; cultural and tribal cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, population and housing, public services and recreation, transportation, utilities and service systems, and wildfire. The Draft SEIR found potentially significant impacts in the areas of air quality, cultural and tribal cultural resources, greenhouse gas emissions, noise, and transportation. Despite identifying policies and mitigation measures that would reduce the potentially significant impacts, each of these significant impacts was considered significant and unavoidable.

In determining the significance of the environmental effects, it is important to emphasize that in issue areas when uncertainty surrounds impacts at a program level, the SEIR analysis uses a conservative approach to both assessment and conclusions.

Due to the program level of analysis in the SEIR and lack of project-specific development plans, it is not possible at this time to define the exact extent of potential impacts, so it is not possible to ascertain with certainty whether the identified mitigation measures will reduce impacts to levels considered “less than significant.” Future development proposals will be subject to site-specific, project-level environmental analysis pursuant to *CEQA Guidelines* Section 15168.

The following subsections list each significant or potentially significant environmental impact by issue area in the order it appears in the Draft SEIR and includes proposed mitigation measures. A full documentation of the environmental analysis and conclusions is in the Final EIR, which is incorporated by reference.

6.1 Air Quality

Impact AQ-2 **Implementation of the proposed project would violate air quality standards or contribute to an existing air quality violation because project-related emissions would exceed SDAPCD thresholds. Similarly, the proposed project would result in a cumulatively considerable net increase of criteria pollutants for which the project region is nonattainment under applicable federal or state ambient air quality standards. This impact would be significant and unavoidable.**

Facts in Support of Finding:

Implementation of mitigation measure AQ-2 and compliance with applicable general plan policies would reduce impacts to the extent feasible, however it would be speculative to quantify such emissions at this time as the details of the individual projects are not known. Therefore, impacts would remain significant and unavoidable.

Mitigation Measures

MM AQ-2: Operational Emissions Reductions

During the project design and project-level review phases of development projects at the 18 rezone sites, the city shall require each project to determine operational air quality emissions from the project. For projects that exceed regulatory SDCAPCD thresholds, mitigation shall be implemented to reduce impacts to below the regulatory thresholds or to the maximum extent feasible implementing all feasible mitigation. The following represents some measures aimed at reducing air pollutant emissions from operational sources. This is not an exhaustive list of measures, and individual projects shall incorporate measures that best fit each project design. Use architectural coating materials, as defined in SDAPCD Rule 67.0.1, that are zero-emission or have a low-volatile organic compound (VOC) content (below 10 grams per liter). Where such VOC coatings are not available or feasible, the coating with the lowest VOC rating available shall be used. These measures shall be noted on all construction plans, and the city shall perform periodic site inspections during construction to verify compliance.

- Prohibit the installation of woodstoves, hearths, and fireplaces in new construction facilitated by the proposed project.
- Expand and facilitate completion of planned networks of active transportation infrastructure.
- Implement EV charging infrastructure beyond requirements set forth in the 2022 CalGreen mandatory measures. Such requirements would be equivalent to the Tier 2 voluntary measures set forth in the 2022 CalGreen standards.
- Implement traffic demand measures, such as unbundling parking fees from rent/lease options, encouraging/developing a ride-share program for the community, and provide car/bike sharing services, that will reduce daily individual car usage and reduce project VMT

Findings

Based upon the Final SEIR and the entire record before the City Council, the council finds that although implementation of mitigation measure AQ-2, which requires each project to determine operational air quality emissions from the project and incorporate measures to reduce emissions if the project would exceed regulatory SDCAPCD thresholds, would reduce operational emissions from future development under the proposed project, it would be speculative to quantify such emissions at this time as the details of the individual projects are not known. Pursuant to *CEQA Guidelines* Section 15091(a)(3), specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR, therefore, impacts would remain significant and unavoidable. **(Finding (3); CEQA Guidelines Section 15091(a)(3)).**

Overriding Considerations

The environmental, economic, social, and other benefits of the proposed project as stated more fully in the Statement of Overriding Considerations in Section 9, override any remaining significant adverse impact of the proposed project associated with impacts to operational air quality.

6.2 Cultural and Tribal Cultural Resources

Impact CUL-1 Development facilitated by the project could impact known and previously unidentified historical resources. Impacts to historical resources would be significant and unavoidable.

Facts in Support of Finding:

No feasible mitigation measures are required beyond adherence to applicable General Plan policies, the Historic Preservation Ordinance, and the relevant provisions of the Carlsbad Cultural Resource Guidelines. As explained in the SEIR, measures to reduce impacts outlined above would not in all cases avoid impacts to historical resources. Therefore, impacts to historical resources would be significant and unavoidable.

Mitigation Measures

No mitigation measures are required because adherence to the relevant General Plan policies, the Historic Preservation Ordinance, and the relevant provisions of the Carlsbad Cultural Resource Guidelines would reduce impacts to the maximum extent feasible. No other feasible mitigation measures are available.

Findings

Based upon the Final SEIR and the entire record before the City Council, the council finds that there are no feasible mitigation measures beyond adherence to the relevant General Plan policies, the Historic Preservation Ordinance, and the relevant provisions of the Carlsbad Tribal, Cultural and Paleontological Resources Guidelines. Adherence to these measures would not in all cases avoid impacts to historical resources. Pursuant to *CEQA Guidelines* Section 15091(a)(3), specific economic, legal, social, technological, or other considerations make infeasible the mitigation

measures or project alternatives identified in the final EIR, therefore, impacts would remain significant and unavoidable. **(Finding (3); CEQA Guidelines Section 15091(a)(3)).**

Overriding Considerations

The environmental, economic, social, and other benefits of the proposed project as stated more fully in the Statement of Overriding Considerations in Section 9, override any remaining significant adverse impact of the proposed project associated with impacts to historic resources.

6.3 Greenhouse Gas Emissions

Impact GHG-1 New residential development facilitated by the proposed project would generate temporary and long-term increases in GHG emissions. Because the proposed project includes additional housing not included in forecasting or reduction goals in those plans, the proposed project would conflict with the GHG emissions goals of the City of Carlsbad Climate Action Plan and 2015 General Plan. This impact would be significant and unavoidable.

Facts in Support of Finding:

Implementation of Mitigation Measure GHG-1 would ensure that the updated City of Carlsbad Climate Action Plan (CAP) includes the additional housing units included in the proposed project within its forecasts and emissions reduction goals and would ensure that development facilitated by the project after the CAP is updated would be consistent with State emissions goals. However, individual projects that may occur prior to the adoption of the updated CAP would not be guaranteed to be consistent with State emissions goals. Until the updated CAP and any emission thresholds or updated checklists are adopted, implementation of the proposed project would not be consistent with State GHG reduction plans. If and when the city's CAP is in accordance with statewide emissions targets and accounting for growth under the proposed project, this impact may be reduced to less than significant. Therefore, until the city updates the CAP in accordance with Mitigation Measure GHG-1, the project's impacts related to greenhouse gas (GHG) emissions would be significant and unavoidable.

Mitigation Measures

MM GHG-1: Update City of Carlsbad Climate Action Plan

The City shall draft and City Council shall adopt an updated CAP within 12-18 months of adoption of this SEIR. An updated CAP shall include targets that reflect those set by SB 32 to reduce GHG emissions by 40 percent below the 1990 levels by 2030 and AB 1279 reduce GHG emissions by 85 percent below 1990 levels by 2045. Implementation measures in an updated CAP to achieve the 2030 and 2045 targets shall include measures such as, but are not limited to, the following:

- Develop and adopt an updated building energy efficiency ordinance, or "reach code" for existing and proposed structures;
- Expand charging infrastructure and parking for electric vehicles;

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- Implement carbon sequestration by expanding the urban forest; and,
- Implement policies and measures included in the 2022 California Climate Change Scoping Plan, such as mobile source strategies for increasing clean transit options and zero emissions vehicles by providing electric vehicle charging stations.

As part of the updated CAP, the City shall establish CEQA GHG Emissions Thresholds of Significance and an updated CAP Consistency Checklist that are consistent with the updated CAP for use in future CEQA GHG emissions analyses through 2030 and consistent with SB 32. In addition, upon completion of future CAP updates and as necessary, the City shall update the CEQA GHG emissions thresholds of significance and CAP Consistency Checklist to be consistent with each CAP update.

Findings

Based upon the Final SEIR and the entire record before the City Council, the council finds that although implementation of mitigation measure GHG-1, which requires an update to the Carlsbad CAP, would reduce greenhouse gas emissions, impacts would remain significant and unavoidable. Pursuant to *CEQA Guidelines* Section 15091(a)(3), specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR, therefore, impacts would remain significant and unavoidable. **(Finding (3); CEQA Guidelines Section 15091(a)(3)).**

Overriding Considerations

The environmental, economic, social, and other benefits of the proposed project, as stated more fully in the Statement of Overriding Considerations in Section 9, override any remaining significant adverse impact of the proposed project related to greenhouse gas emissions.

6.4 Noise

Impact NOI-1	Construction would be required to comply with the allowed daytime construction hours regulated by the Carlsbad Municipal Code and, therefore, would not occur during nighttime hours when people are more sensitive to noise. Implementation of Mitigation Measure NOI-1 would reduce construction noise levels for larger developments; however, construction noise may still exceed thresholds and this impact would be significant and unavoidable.
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Facts in Support of Finding:

Mitigation Measure NOI-1 would reduce construction noise impacts whenever a development project is located within 500 feet of a noise-sensitive land use (e.g., residences, schools, libraries, hospitals) and includes one or more of the following components:

- Two subterranean levels or more (generally more than 20,000 cubic yards of excavated soil material);
- Construction durations of 18 months or more (excluding interior finishing);
- Use of large, heavy-duty equipment rated 300 horsepower or greater; or

- The potential for pile driving.

For example, measures such as a temporary noise barrier can reduce noise levels from 5 dBA to 15 dBA, which would reduce construction noise levels from typical development to below 80 dBA L_{eq} during an 8-hour period. However, given that exact details of future construction projects are unknown at this time, it is conservatively assumed that construction noise may exceed applicable thresholds, even with implementation of Mitigation Measure NOI-1, and this impact would be significant and unavoidable.

Mitigation Measures

MM NOI-1: Construction Noise Reduction Measures

The following construction noise reduction measures shall be implemented during project construction:

- **Shielding and Silencing.** Power construction equipment (including combustion engines), fixed or mobile, shall be equipped with noise shielding and silencing devices consistent with manufacturer's standards or the Best Available Control Technology. Equipment shall be properly maintained, and the project applicant or owner shall require construction contractors to keep documentation on-site during earthwork or construction activities demonstrating that the equipment has been maintained in accordance with manufacturer's specifications.
- **Enclosures and Screening.** Outdoor fixed mechanical equipment shall be enclosed or screened from off-site noise-sensitive uses to the extent feasible. The equipment enclosure or screen shall be impermeable (i.e., solid material with minimum weight of 2 pounds per square feet) and break the line-of-sight from the equipment and off-site noise-sensitive uses.
- **Construction Staging Areas.** Construction staging areas shall be located as far from noise-sensitive uses as reasonably feasible in consideration of site boundaries, topography, intervening roads and uses, and operational constraints.
- **Smart Back-Up Alarms.** Mobile construction equipment shall have smart back-up alarms that automatically adjust the sound level of the alarm in response to ambient noise levels. Alternatively, back-up alarms shall be disabled and replaced with human spotters to ensure safety when mobile construction equipment is moving in the reverse direction.
- **Equipment Idling.** Construction vehicles and equipment shall not be left idling for longer than five minutes when not in use.
- **Workers' Radios.** All noise from workers' radios, including any on-site music, shall be controlled to a point that they are not audible at off-site noise-sensitive uses.
- **Use of Driven Pile Systems.** Driven (impact), sonic, or vibratory pile drivers shall not be used, except in locations where the underlying geology renders alternative methods

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infeasible, as determined by a soils or geotechnical engineer and documented in a soils report.

- **Temporary Sound Barriers.** Temporary sound barriers, such as walls or sound blankets, shall be positioned between construction activities and noise-sensitive uses when construction equipment is located within a line-of-sight to and within 500 feet of the ground-floor exterior use areas of off-site noise-sensitive uses. Sound barriers shall break the line-of-sight between the construction noise source and the ground-floor exterior use area receiver where modeled levels exceed applicable standards. Placement, orientation, size, and density of acoustical barriers shall be specified by a qualified acoustical consultant.
- **Noise Complaint Response.** Project applicants shall designate an on-site construction project manager who shall be responsible for responding to any complaints about construction noise. This person shall be responsible for responding to concerns of neighboring properties about construction noise disturbance and shall be available for responding to any construction noise complaints during the hours that construction is to take place. They shall also be responsible for determining the cause of the noise complaint (e.g., bad silencer) and shall require that reasonable measures be implemented to correct the problem. A toll-free telephone number and email address shall be posted in a highly visible manner on the construction site at all times and provided in all notices (mailed, online website, and construction site postings) for receiving questions or complaints during construction and shall also include procedures requiring that the on-site construction manager to respond to callers and email messages. The on-site construction project manager shall be required to track complaints pertaining to construction noise, ongoing throughout demolition, grading, and/or construction and shall notify the city's Community Development Director of each complaint occurrence.
- **Project-Specific Construction Noise Study.** A Construction Noise Study shall be prepared by a qualified noise expert. The Construction Noise Study shall characterize sources of construction noise, quantify noise levels at noise-sensitive uses (e.g., residences, schools, churches, and hospitals) and identify measures to reduce noise exposure. The Construction Noise Study shall identify reasonably available noise reduction devices or techniques to reduce noise levels to acceptable levels and/or durations including through reliance on any relevant federal, state or local standards or guidelines or accepted industry practices. Noise reduction devices or techniques may include but not be limited to silencers, enclosures, sound barriers, and/or placement of restrictions on equipment or construction techniques (e.g., alternative installation methods to pile driving such as cast-in-place systems or pile cushioning). Each measure in the Construction Noise Study shall identify anticipated noise reductions at noise-sensitive land uses.

Project applicants shall be required to comply with all requirements listed above in addition to any additional requirements identified and recommended by the Construction Noise Study and shall maintain proof that notice of, as well as compliance with, the identified measures have been included in contractor agreements.

Findings

Based upon the Final SEIR and the entire record before the City Council, the council finds that although implementation of mitigation measure NOI-1, which requires the implementation of construction noise reduction measures, impacts would remain significant and unavoidable. Pursuant to *CEQA Guidelines* Section 15091(a)(3), specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR, therefore, impacts would remain significant and unavoidable (**Finding (3); CEQA Guidelines Section 15091(a)(3)**).

Overriding Considerations

The environmental, economic, social, and other benefits of the proposed project, as stated more fully in the Statement of Overriding Considerations in Section 9, override any remaining significant adverse impact of the proposed project related to noise.

6.5 Transportation

Impact T-2 **Development facilitated by the proposed project has the potential to interfere with achievement of the VMT reductions set forth in City of Carlsbad VMT Analysis Guidelines. This impact would be significant and unavoidable.**

Facts in Support of Finding:

Because the uncertainty relating to the feasibility of on-site transportation demand management (TDM) measures and the implementation process for individual development projects in diverse project settings, the timing that it will take to implement those measures, and the lack of an off-site mitigation option, the effectiveness of reducing an individual project's VMT impact to a less than significant level cannot be determined as part of this SEIR. As a result, this impact is identified conservatively as significant and unavoidable with mitigation given the possibility that some projects may not be able to identify and implement measures to reduce the VMT impact to a less-than-significant level.

Mitigation Measures

MM T-1: Achieve VMT Reductions for Development Projects

During the project design and project-level review phases of development projects at the 18 rezone sites, the city shall review each project compared to the City of Carlsbad VMT Analysis Guidelines screening criteria to determine if the submitted project is eligible to be screened out of conducting project-level VMT analysis. If a project meets one or more of the screening criteria, the project is determined to have a less than significant impact to VMT in accordance with the city's VMT Analysis Guidelines. A project that has not been excluded from the VMT analysis screening process outlined above must undergo a quantitative VMT analysis to determine whether it will have a significant impact on VMT. If it is determined that the project would have a significant impact on VMT (i.e., it does not result in at least a 15 percent reduction in VMT compared to existing conditions), the city shall require the project to implement project-level

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VTM reduction measures, as noted below, prior to project approval and issuance of construction permits.

TDM measures and physical measures to reduce VMT are outlined in the *City's VMT Analysis Guidelines* and have been identified as potentially VMT reducing in the California Air Pollution Control Officers Association (CAPCOA) *Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity* (December 2021). The CAPCOA Handbook provides detailed requirements, calculation steps, and limitations for assessing the VMT reduction effectiveness of each measure, including reductions from combinations of measures.

Trip reduction strategies may include, but are not limited to, the following:

1. Provision of bus stop improvements or on-site mobility hubs
2. Pedestrian improvements, on-site or off-site, to connect to nearby transit stops, services, schools, shops, etc.
3. Bicycle programs including bike purchase incentives, storage, maintenance programs, and on-site education program
4. Enhancements to the citywide bicycle network
5. Parking reductions and/or fees set at levels sufficient to incentivize transit, active transportation, or shared modes
6. Cash allowances, passes, or other public transit subsidies and purchase incentives
7. Providing enhanced, frequent bus service
8. Implementation of shuttle service

Other measures not listed in CAPCOA but are proven to be effective means of reducing the amount of VMT generated by residents include increasing the mix of uses by adding retail or services within a site or within convenient walking distance.² Although it is unlikely that TDM measures will fully mitigate the impact of the program to a less-than-significant level, CEQA mandates the implementation of feasible mitigation measures to reduce a project or program's level of impact. In this context, Fehr & Peers identified a list of recommended TDM measures from Appendix E of the city's VMT Analysis Guidelines to mitigate the project VMT impact to the extent feasible [as presented in Table 4.13-3 of Section 4.13, Transportation, of this SEIR]. The summary provides an estimate of the effectiveness of these measures and specifies which ones are applicable to areas that have adjacent or near transit.

² American Planning Association PAS Memo, 2013. "Getting Trip Generation Right: Eliminating the Bias Against Mixed Use Development" by Jerry Walters, Brian Bochner, and Reid Ewing, May.

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Findings

Based upon the Final SEIR and the entire record before the City Council, the council finds that although implementation of mitigation measure T-1, which requires project-specific VMT analysis and reduction, would reduce impacts to the extent feasible, impacts would remain significant and unavoidable. Pursuant to *CEQA Guidelines* Section 15091(a)(3), specific economic, legal, social, technological, or other considerations make infeasible mitigation measures or project alternatives identified in the final EIR, therefore, impacts would remain significant and unavoidable (**Finding (3); CEQA Guidelines Section 15091(a)(3)**).

Overriding Considerations

The environmental, economic, social, and other benefits of the proposed project, as stated more fully in the Statement of Overriding Considerations in Section 9, override any remaining significant adverse impact of the proposed project related to noise.

7 Findings and Recommendations Regarding Cumulatively Considerable Impacts

An EIR is required to discuss the cumulative impacts of a project when the project's incremental effect is cumulatively considerable. *CEQA Guidelines* Section 15130(a). "Cumulatively considerable" means that the incremental effects of the project are significant when viewed in connection with the effects of past projects, other current projects, and probable future projects. *CEQA Guidelines* Section 15065(a)(3); Pub. Resources Code Section 21083(b)(2). Section 4, Environmental Impact Analysis, of the Draft SEIR includes analyses of the cumulative impacts of the project in combination with reasonably foreseeable probable future projects which is described in Section 3, Environmental Setting, of the Draft SEIR. The findings in this section are based on the Draft SEIR, the discussion and analysis in which is hereby incorporated in full by this reference.

The City of Carlsbad finds that the proposed project will result in cumulatively considerable impacts to air quality, cultural and tribal cultural resources, noise, and transportation.

As discussed in Section 4.2, Air Quality, of the Draft SEIR, project related air pollution may combine with other cumulative projects (past, present, and reasonably foreseeable future) to violate criteria pollutant standards if the existing background sources cause nonattainment conditions. Air districts manage attainment of the criteria pollutant standards by adopting rules, regulations, and attainment plans, which comprise a multifaceted programmatic approach to such attainment. The geographic scope for analyzing cumulative air quality impacts is the San Diego Air Basin (SDAB). The SDAB is designated a nonattainment area for the ozone National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS), the particulate matter (PM₁₀) CAAQS, and the PM_{2.5} CAAQS. The SDAB is in attainment of all other NAAQS and CAAQS. Therefore, cumulative air quality impacts related to PM₁₀, PM_{2.5}, and ozone are potentially significant. Additionally, SDAPCD's approach for assessing cumulative impacts is based on consistency with the latest adopted RAQS. With implementation of Mitigation Measure AQ-1, the proposed project would be consistent with the RAQS. Additionally, SDAPCD best management practices are required for all grading activities in the SDAPCD's jurisdiction, which would reduce Citywide emissions of ozone precursors, PM₁₀, and PM_{2.5} from construction facilitated by the proposed project. However, operational emissions resulting from the proposed project would result in exceedances of SDAPCD thresholds, even with implementation of Mitigation Measure AQ-2, and thus would be significant and unavoidable. Therefore, the proposed project's contribution to cumulative air quality impacts would result in a cumulatively significant impact.

Development facilitated by the proposed project would have the potential to impact historical resources. The geographic scope for cumulative cultural resource impacts includes areas in the vicinity Carlsbad, including adjacent unincorporated County land and adjacent incorporated cities. This geographic scope is appropriate for cultural resources because such resources are regionally specific. The geographic scope for cumulative tribal cultural resource impacts includes Luiseño and Kumeyaay/Diegueño traditional territory. This geographic scope is appropriate for tribal cultural resources because tribal cultural resources are regionally specific and determined by the local tribes. Cumulative buildout in this region would have the potential to adversely impact

cultural and tribal cultural resources. It is possible that future cumulative projects would result in impacts to known or unknown historical resources. While impacts to such resources would be addressed on a case-by-case basis and would likely be subject to mitigation measures similar to those imposed for development facilitated by the project, cumulative development may result in direct or indirect impacts to historical resources. As such, cumulative historical impacts would be significant. Development facilitated by the project would adhere to the provisions of the Carlsbad Cultural Resource Guidelines related to historical resources. However, even after implementation of these guidelines, the proposed project would result in a considerable contribution to this cumulative impact.

As discussed in Section 4.10, Noise, of the Draft SEIR, construction of future development projects in the city would produce temporary noise impacts that would be localized to a project site and sensitive receivers within the immediate vicinity. Therefore, only sensitive receivers located in close proximity to each construction site would be potentially affected by each activity. Nonetheless, construction activities associated with individual housing development projects accommodated under the project may overlap for some time with construction activities for other development projects. Typically, if a development site is 500 feet or more away from another site then noise levels would have attenuated to a point that they would not combine to produce a cumulative noise impact. Therefore, construction noise levels would typically become cumulative only if two development sites were to have construction occurring within 500 feet of each other. However, under a worst-case scenario, noise from construction activities for two projects within 1,000 feet of each other could contribute to a cumulative noise impact for sensitive receivers located equidistant between the two construction sites with concurrent on-site activities. Construction activities associated with future development would comply with Chapter 8.48 of the CMC and would occur Monday through Friday from 7 a.m. to 6 p.m. and Saturday 8 a.m. to 6 p.m.; no work shall be conducted on Sundays and any federal holiday. It is anticipated that, with implementation of Mitigation Measure NOI-1, construction noise levels associated with housing development could be reduced below the applicable FTA noise limits for construction noise on a case-by-case basis. Nonetheless, larger development projects could combine together, or combine with smaller development projects, to substantially increase noise levels at specific neighboring noise-sensitive receivers. Mitigation Measure NOI-1 would reduce construction noise impacts from developments to the extent feasible. However, as exact construction details are unknown at this time, even with mitigation the project's contribution to a cumulative noise impact could be considerable.

As discussed in Section 4.13, Transportation, of the Draft SEIR, the analysis for the project is based on VMT per resident. As discussed under Impact T-2, project-specific VMT impacts would be significant which means implies that the project would also have a cumulatively considerable contribution to a significant cumulative impact. Since project-level significance thresholds were designed to support long-term environmental goals, they inherently also address potential cumulative VMT impacts. As such, VMT would be cumulatively considerable. Therefore, the cumulative impact related to VMT would be significant and unavoidable.

8 Project Alternatives

An EIR is required to identify a “range of potential alternatives to the project [which] shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one of more of the significant effects” (*CEQA Guidelines* Section 15126.6(c)). However, pursuant to CEQA Section 15163(b), “the supplement to the EIR need contain only the information necessary to make the previous EIR adequate for the project as revised.” There is no mandate to include project alternatives in a SEIR. The 2015 General Plan EIR included the evaluation of a range of alternatives selected for their potential to avoid or lessen environmental impacts of the 2015 General Plan. Although not required for a SEIR, in light of the public interest in the project and the anticipated impacts identified for comparison to the existing 2015 General Plan, the city has elected to prepare an alternatives analysis for informational purposes.

8.1 Alternative Analysis

The following is a brief summary of the alternatives to the proposed project considered in Section 6, *Alternatives*, of the Draft SEIR. Section 6 of the Draft SEIR contains a complete discussion of the alternatives and a comparative impact analysis of alternatives.

The evaluation of these scenarios will provide clear alternatives based on geography and allow the decision-making body to ultimately decide on one or the other or a hybrid of the two. The goal of the land use scenarios is to provide a comparative analysis, from which the city can "sculpt" the development patterns best suited to the city for inclusion in the Housing Element in conformance with State law. Ultimately, the intention of the Alternatives Analysis was to study alternatives that fully accommodated the RHNA allocation and some percentage of a buffer so the city was confident that the Housing Element can remain compliant with the No Net Loss provisions of State law throughout the remaining portion of the eight-year cycle.

ALTERNATIVE 1: NO PROJECT

The purpose of evaluating the No Project Alternative is to allow decision-makers to compare the potential impacts of approving the project with the potential impacts of not approving the project. The No Project analysis discusses both the existing conditions at the time the NOP is published as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved.

The No Project Alternative, Alternative 1, is defined as a land use pattern comprised of land use trends according to the 2015 General Plan. It assumes that regional growth trends and land use according to the 2015 General Plan would continue, without the Housing Element Implementation and Public Safety Element Update as proposed under the project. Under Alternative 1, population in the Plan Area for 2035 would be 133,410, consistent with the findings of the 2015 General Plan and acknowledging approved residential development since the General Plan's adoption. The 18 rezone sites would not be developed at the same capacity under this scenario as it would under the proposed project. Under existing zoning, Alternative 1 would result in the development of approximately 506 units on the 18 rezone sites, which would be 2,789 units fewer than the 3,295 units contemplated for the proposed project. Land use projects would be comprised of those that are currently in construction or are implemented through the 2015

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General Plan updated to reflect current conditions. As land use under the current General Plan still has residential capacity (as well as capacity for new non-residential construction, such as new commercial and industrial buildings), the city would continue to grow in terms of housing units, population, non-residential square footage, and jobs.

Findings

The No Project Alternative is rejected as infeasible because it would not achieve the proposed project's objectives. While not an environmental impact under CEQA, this alternative would not be consistent with the required programs of the 2021-2029 Housing Element and the city would be at risk of having the Housing Element decertified by the State if this program is not implemented.

Though it may appear to be environmentally superior to the proposed project, as it would result in slightly less greenhouse gas emissions, it would still result in significant impacts related to air quality, cultural and tribal cultural resources, noise, and transportation.

ALTERNATIVE 2: REDUCED SITES

Alternative 2, Reduced Sites, would include development on most of the rezone sites as identified in the project. However, Alternative 2 would exclude development on rezone sites 3, 8, and 15, which, as identified in Table 2-4 of Section 2, *Project Description*, would accommodate a net increase (not including units already permitted under current designations) of 137 dwelling units total under the project. Additionally, the number of units on sites 14 and 17 would be increased to accommodate more housing (180 units more than analyzed under the project) near COASTER transit stations, which are operated by North County Transit District. Therefore, development under Alternative 2 would accommodate 43 more dwelling units than the proposed project. Alternative 2 would still achieve project objectives such as facilitating residential development to meet the 2021-2029 RHNA and pursuing an infill strategy to create walkable communities.

Findings

Alternative 2 is rejected as infeasible because it would not as effectively achieve all the objectives of the proposed project. It is not the environmentally superior alternative and would not avoid or substantially lessen the significant air quality, greenhouse gas, cultural and tribal cultural resources, noise, or transportation impacts of the proposed project.

9 Statement of Overriding Consideration

The City of Carlsbad has: (1) independently reviewed the information in the SEIR and the record of proceedings; (2) made a reasonable and good faith effort to avoid or substantially lessen the significant impacts resulting from the proposed project to the extent feasible by including mitigation measures in the SEIR that effectively mitigate potential environmental impacts to the greatest extent feasible; (3) considered the alternatives evaluated in the SEIR and determined that each of them is infeasible for the reasons stated in Section 8 above; and (4) balanced the proposed project's benefits against the proposed project's significant unavoidable impacts.

The city finds that the proposed project most fully implements the objectives (as stated in Section 2, *Project Description*, of the SEIR)

- Implement the Land Use and Community Design Element, Public Safety Element, and Zoning Ordinance, as amended by this project, to achieve adequate sites for all income groups;
- Provide adequate sites, zoned at appropriate densities and development standards, to facilitate residential development and affordability goals set forth in the 2021-2029 RHNA and as identified in the Housing Element.
- Pursue an infill strategy to foster compact development patterns, create walkable communities and preserve the natural environment and critical environmental areas;
- Expand housing choices to provide a diverse housing inventory to meet the changing needs of the Planning Area, which includes more affordable housing options;
- Update the Public Safety Element to comply with existing State laws; and,
- Ensure high level of public safety to protect the personal safety and welfare of people who live, work, and visit Carlsbad from crime, pollution, disasters, and other threats and emergencies.

The City Council declares that it has adopted all feasible mitigation measures to reduce the proposed project's environmental impacts to an insignificant level; considered the entire administrative record, including the Final SEIR; and weighed the proposed project's benefits against its environmental impacts. After doing so, the City Council has determined that the proposed project's benefits outweigh its significant environmental impacts on air quality, cultural and tribal cultural resources, greenhouse gas emissions, noise, and transportation, and deems them acceptable.

The City Council identified the following public benefits in making this determination. Each of these public benefits serves as an independent basis for overriding all unavoidable significant adverse environmental impacts identified in these Findings and the Final SEIR. The City Council considers these impacts to be acceptable, consistent with *CEQA Guidelines* Section 15093.

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The City Council finds adoption and implementation of the proposed project would provide the following economic, social, legal, and other considerable benefits:

- The proposed project will ensure that the City of Carlsbad meets its State-mandated RHNA requirements, including the recommended buffer to comply with the State Housing Element Law.
- The proposed project will encourage housing affordability, which is desired by the community and will contribute toward alleviating a shortage of housing in Carlsbad and the region.
- The proposed project will encourage development of a variety of housing types at a range of income levels and balances the location of future development proposals with tangible, local benefits to residents in the area (e.g., creating opportunities for zoning for a variety of housing types particularly those that may be lacking from the community or neighborhood including multi-family housing, low-barrier navigation centers, group homes, supportive housing, and accessible units.)
- The proposed project will expand streamlined approval processes for developments that include affordable units.
- The proposed project will encourage the integrated development of housing and balanced living patterns with access to transit, jobs, services, and community benefits in a manner that distributes affordable and special needs housing, including in high resource neighborhoods, and that affirmatively furthers fair housing to ensure equitable access to opportunity.
- The proposed project will help sustain existing neighborhoods by allowing development on infill and previously vacant or underutilized sites in Carlsbad.
- The proposed project will prioritize sustainability and connectivity by allowing and encouraging housing options that are near public transportation within Carlsbad.
- The proposed project will increase Carlsbad's emergency preparedness and hazard mitigation measures by providing new and expanded safety-related information to residents and policy direction to developers and partner agencies.
- The proposed project will ensure that the Public Safety Element complies with existing state laws.

10 Conclusion

In summary, after balancing the specific economic, legal, social, technological, and other benefits of the proposed project, the City Council finds that the unavoidable adverse environmental impacts identified may be considered “acceptable” due to the specific considerations listed above, which outweigh the unavoidable, adverse environmental impacts of the proposed project.

The City Council has considered information contained in the SEIR prepared for the proposed project as well as the public testimony and record of proceedings in which the project was considered. Recognizing that significant unavoidable air quality and transportation impacts may result from implementation of the proposed project, the Council finds that the benefits of the proposed project and overriding considerations outweigh the adverse effects of the proposed project. Having included all feasible mitigation measures and recognized all unavoidable significant impacts, the City Council hereby finds that each of the separate benefits of the proposed project, as stated herein, is determined to be unto itself an overriding consideration, independent of other benefits, that warrants adoption of the proposed project and outweighs and overrides its unavoidable significant effects, and thereby justifies the adoption of the proposed project.

In reaching this conclusion and approving the proposed project:

1. The City Council has considered the information contained in the Final SEIR and fully reviewed and considered all of the public testimony, documentation, exhibits, reports, and presentations included in the record of these proceedings. The City Council specifically finds and determines that this Statement of Overriding Considerations is based upon and supported by substantial evidence in the record.
2. The City Council has carefully weighed the benefits of the proposed project against any adverse impacts identified in the Final SEIR that could not be feasibly mitigated to a level of insignificance. While the Council have required all feasible mitigation measures, some impacts remain potentially significant.
3. This Statement of Overriding Considerations applies specifically to those impacts found to be potentially significant and unavoidable as set forth in the Final SEIR and the record of these proceedings.