



Sent via U.S. Mail and Email

March 12, 2018

San Pacifico Master Association Association, including:

Santalina at San Pacifico HOA and
Rosalina at San Pacifico HOA
c/o Erik Runsvold
Property/ADVANTAGE
5142 Avenida Encinas
Carlsbad, CA 92008

Vistamar at San Pacifico HOA and
San Pacifico Area A HOA
c/o Lee Leibenson
Walters Management Company
9665 Chesapeake Drive, suite 300
San Diego, CA 92123

Re: Mowing conducted on Shopoff Property in 2017

Dear Community Members,

The purpose of the letter is to inform local residents concerned about vegetation mowing that occurred on July 31, 2017 on the Shopoff property adjacent to Ponto Drive in Carlsbad, California. This summary includes why the mowing was requested, the city's review and approval of the request, concerns expressed by adjacent residents, communication and coordination with the resource agencies, and the current status of this issue.

After reviewing LSA's February 2017 Biological Technical Report (BTR), the HMP Coordinator/City Biologist (Coordinator) conducted a site visit on March 10, 2017 to evaluate site conditions. During the site visit, the Coordinator walked throughout the property, took numerous photographs, and took notes on plant species and site conditions. The vegetation map in this BTR showed much of the area to be "Disturbed Habitat." The mapping appeared to be accurate – the area mapped as Disturbed Habitat was either barren of vegetation or highly dominated by non-native species, mostly garland daisy (*Glebionis coronarium*), red brome (*Bromus madritensis ssp. rubens*) and Hottentot fig (*Carpobrotus edulis*). Although there were scattered individual coyote brush shrubs (*Baccharis pilularis*), there were no other native shrub or forb species consistent with coastal sage scrub or other native habitat community. Good quality coastal sage scrub, which would provide nesting habitat for the federally threatened coastal California gnatcatcher (*Polioptila californica californica*) was identified offsite, south of the property boundary. A very small portion of this coastal sage scrub patch occurred onsite, consistent with the vegetation map in the BTR.

On July 6, 2017, the city's Project Planner notified the Coordinator that the developer had requested to mow the area and asked for guidance to determine if this activity could be allowed. Mowing was not requested or required by the City Fire Department. It was the Coordinator's understanding that the request came from residents concerned about weeds and fire danger. The Coordinator consulted the photographs and notes from the March 10, 2017 site visit and reviewed the BTR (e.g. onsite vegetation descriptions and sensitive biological resources). The biological resources map in the February 2017 BTR showed a federally threatened coastal California gnatcatcher location on the area mapped as coastal sage scrub on the southern boundary of the site, but did not include any other known gnatcatcher locations.

In July 2017, the Coordinator reviewed a request from the developer to mow the area. The city approved the mowing for the following reasons: biological surveys had already been conducted in this

area, and therefore, the location of sensitive biological resources were documented; the vast majority of the area to be mowed was disturbed or ornamental; and no sensitive plant species had been observed onsite. Additionally, this area was within the developable portion of the HMP (i.e., not a Standards Area, Proposed Hardline, or Existing Hardline), so although all biological impacts must be mitigated, this property was not considered high priority for conservation within the city. The city allowed the mowing and required the following measures to be implemented:

1. Prior to mowing, a map shall be prepared showing the area to be mowed.
2. A qualified biologist will conduct a pre-mowing clearance survey to ensure that there are no nesting birds within the area of impact.
3. If a nest is observed, the biologist will establish and fence a no-work buffer area around the nest until the nestlings have successfully fledged. A nest of California gnatcatcher requires a 500-foot buffer. The no-work buffer width for other species will be determined on a case-by-case basis by the biologist based on the biology of the species, and approved by the city.
4. Within areas of coastal sage scrub, only non-native grasses and forbs may be removed with a weed whip or similar device. All native shrubs, grasses and forbs will be avoided. A biologist must be onsite to ensure that native plants are not impacted.
5. All cut weeds will be removed from the site and materials discarded in an appropriate landfill.

On July 31, 2017, LSA confirmed that the pre-mowing biological surveys had been conducted and the mowing was completed following the city's requirements. In response to resident inquiries about the mowing, the Coordinator conducted a site visit on August 1, 2017 to identify any potential issues. With the exception of approximately four invasive, non-native trees, no vegetation was removed or cleared from the site; rather, the vegetation was mowed to approximately six inches in height and the cut vegetation was left onsite to protect the soil. No dead or injured animals were observed. Erosion is not an issue because the area itself is a basin, and quite flat. Photographs and notes were taken to document site conditions. All activity related to the mowing has been communicated to the resource agencies (U.S. Fish and Wildlife Service [USFWS], California Department of Fish and Wildlife [CDFW], and California Coastal Commission [CCC]) every step of the way since the first resident inquiry was received.

On August 24, 2017 USFWS requested a meeting with the resource agencies and developer to discuss the matter further, as they were concerned that a portion of the site that was mapped as "Disturbed Habitat" had previously been mapped as coastal sage scrub and that there were documented observations of the California gnatcatcher in this area. LSA, the biological consultant who mapped the project area, confirmed that the area had previously been mapped as coastal sage scrub, but that the focused survey area was re-assessed and re-classified as disturbed land. As explained in the February 2017 BTR: "This vegetation consists of monotypic pockets of coyote brush shrubs surrounded by nonnative species such as garland daisy and Hottentot fig. There is no evidence of other species typically associated with coastal sage scrub habitat in these areas. After deliberation and review of the HMP, it is clear that the coyote brush shrubs (weedy native species) and surrounding nonnative invasive vegetation do not constitute coastal sage scrub habitat and do not provide suitable habitat for Coastal California gnatcatcher." The resource agencies disagree with this finding and consider the previous mapping to be more accurate. Through the HMP, however, the city has authorization to evaluate and issue permits for potential impacts to the coastal California gnatcatcher and its habitat.

Specific questions asked by residents of the Poinsettia Shores Community and San Pacifico Community Association are addressed below.

1. It appears from your message that maybe the developer's paid biologist and the agency biologists that are charged with regulating the HMP issues have a difference of opinion? Is that the case?

Answer: Yes there is a difference of professional opinion. The city has been given authorization by the USFWS and CDFW through the HMP and Implementing Agreement to evaluate and issue permits for potential biological impacts, including impacts to coastal California gnatcatcher and its habitat (i.e., coastal sage scrub).

2. Does the City have an opinion/position relative to the opinions expressed?

Answer: Yes, as described above, the city's biologist's evaluation is consistent with the LSA biologist.

3. Can you briefly explain how/why the city issued the HMP permit with the outstanding difference of opinion – presumably from the resource agencies' biologists?

Answer: No HMP permit has been issued associated with this current project. See number 5 below.

4. Can you briefly summarize the "community concerns" you have represented to the USFWS, CDFW, and CCC? When speaking for someone it is critically important that the persons you are speaking for concur with the representation. As mentioned we have had multiple instances where the developer Shopoff has mis-represented Community concerns.

Answer: Resident concerns expressed to the resource agencies included loss of soil-holding vegetation, potential erosion, water quality, and hydrology. It was also stated that the area was "cleared," "denuded," and "decimated...It looks like a nuke went off, destroying all plant and animal life" and that there were "dead birds everywhere."

5. If Community members wish to see and review the HMP files HMP-15-04 & HMP-16-02, when and where can they do that?

Answer: This question was answered by the Project Planner in an email dated December 6, 2017:

"... your community members, and any member of public for that matter, are allowed to see and review project files anytime they wish to come in and review them.

In regards to HMP 15-04, this file was part of the original Ponto Beachfront East and West Village project applications, which were withdrawn on December 20, 2016. If you'll recall, that project submittal had underwent one (1) review cycle before being withdrawn. A Biological Resources Analysis was never submitted with the initial project application and was identified as Incompleteness Item No. 5 of the May 11, 2015 incomplete letter. You should already have copies of that letter in your files. I have kept all the hard files from this original submittal for reference and can make them available to you once again if you would like to come in and look at them. Just let me know and I'll have the box placed at the front counter for you to review.

In regards to HMP 16-02, this permit is associated with a 35-unit condominium project named Cascada Verde, which has no relationship to the Ponto area developments. I'm assuming you meant HMP 2016-0001, which was assigned to the most recent submittal

of the revised Ponto Beachfront project dating back to December 20, 2016. As it relates to this project submittal, you and/or your community members are allowed to see and review our active project files anytime you wish to come in and review them. Just let us know.”

This letter provides a summary of the city’s actions and decisions related to the mowing that occurred in 2017 on the Shopoff property adjacent to Ponto Drive in Carlsbad.

Sincerely,



James Wood
Environmental Manager

cc: Heather Stroud, Deputy City Attorney
Ron Kemp, Assistant City Attorney
Don Neu, City Planner
Jason Goff, Associate Planner
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