

**CALIFORNIA COASTAL COMMISSION**

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**Th16c**

Filed: December 16, 2004  
49<sup>th</sup> Day: February 3, 2005  
180<sup>th</sup> Day: June 14, 2005  
Staff: KFS-LB ~~6~~  
Staff Report: February 3, 2005  
Hearing Date: February 17, 2005  
Commission Action:

**STAFF REPORT: PERMIT AMENDMENT****APPLICATION NUMBER:** 5-03-013-A1**APPLICANT:** MT No. I LLC**AGENTS:** Mark R. McGuire, Esq.  
Nancy Lucast, Lucast Consulting

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**PROJECT LOCATION:** Northwest of the intersection of Avenida Pico and N. El Camino  
Real, City of San Clemente (Orange County)

**ORIGINAL PROJECT DESCRIPTION:** Residential and commercial development, public park, trails and open space and associated infrastructure including roads and utilities on the 201.38 acre portion of the Marblehead property within the coastal zone. Included are a property subdivision and construction of 313 single family homes on 44.24 acres, 141,506 square feet of commercial space in ten commercial buildings on 22.3 acres, 15.43 acres of public parks; 95.04 acres of public and private open space and pedestrian and bicycle trails; 12.43 acres of private streets; 10.91 acres of public streets; more specifically described in Section II.A. of this staff report. The application also requests follow-up approval for emergency bluff stabilization grading that occurred in the early 1990s.

**DESCRIPTION OF PROPOSED AMENDMENT:** Reconfiguration of commercial and residential lots within the previously approved subdivision; increase grading by 263,400 cubic yards including changing the foundation design of the previously approved Avenida Vista Hermosa bridge to eliminate loffelstein walls; extend sub drain; increase height of 'courtyard' residential units from 24 to 30 feet; within the coastal zone reduce square footage of commercial development from 141,506 square feet to 77,576 square feet and increase parking from 1,732 spaces to 2,276 spaces; widen Via Socorro and Los Molinos streets; widen proposed Sports Park access road and increase parking from 60 to 158 spaces; expand streetscape plant palette to include non-native plant species; minor changes to stormdrain system; add a public park restroom; minor re-alignments and improvements to public trail connectivity; and eliminate deadline for dedication of nine open space lots.

**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends that the Commission approve the proposed amendment, with conditions instituting changes to the previously imposed special conditions. The primary issues raised by the proposed amendment pertain to temporary construction related encroachments into the wetland buffer that the applicant has deemed necessary to construct the Avenida Vista Hermosa bridge (which spans Marblehead Canyon and the wetlands in the canyon bottom); the proposed elimination of the deadline established for completion of dedication of nine open space lots; proposed expansion of the landscaping plant palette for Avenida Vista Hermosa and Avenida Pico; and the proposed extension of a subdrain to intercept groundwater that could have had the potential to affect wetland hydrology.

With respect to the bridge construction issues, the applicant has worked diligently to devise a construction approach that will avoid fill of wetlands and protect that habitat from degradation. Special Condition 17, pertaining to the bridge, has been modified to incorporate the proposed construction measures the Commission's biologist deemed adequate to protect the wetlands.

In the process of the applicant seeking updated local approvals to reconcile differences between the Commission's approval and the City's prior authorizations, the City decided to forego acceptance of nine open space lots that were previously planned to be transferred to the City. The City indicated its desire to only accept fee title to the active park areas and to accept the easements over the trail network, but to forego ownership of the habitat areas and one of the view point parks. Commission staff recommends that the Commission continue to urge the applicant to seek a public entity to take ownership of all the offered lands. Nevertheless, previously imposed special conditions control the use of all of the open spaces and trails, regardless of their ownership, and require protection of the habitat and the provision of public access. Thus, Commission staff found the applicant's proposal to eliminate the deadline for the transfer of these lots acceptable and have suggested changes to the special conditions accordingly.

The expanded landscape palette proposed by the applicant includes some species that may be invasive. Thus, Commission staff is recommending elimination of those species from the plant palette. However, Commission staff believe that expanding the plant palette for the streetscape along El Camino Real and Avenida Pico to include non-native, non-invasive species –as is allowed within the residential and commercial center lots- would not result in adverse impacts to sensitive habitat.

Finally, Commission staff's biologist looked at the proposed subdrain extension, and the information provided by the applicant, and determined that the extended subdrain would not adversely affect wetlands on the site. Thus, the extension can be supported.

**SUBSTANTIVE FILE DOCUMENTS:** See Appendix A

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**PROCEDURAL NOTE:**

**Coastal Development Permit Amendments**

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

The amendment request involves changes to the previously authorized project. The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change and affects conditions required

for the purposes of protecting coastal resources or coastal access.

Section 13166 of the Commission Regulations also calls for the Executive Director to reject a permit amendment request if it would lessen the intent of the previously approved permit. The proposed amendment would not lessen the intended effect of 5-03-013, as amended, because the project would continue to protect sensitive coastal resources and access, consistent with the original permit. Therefore, the Executive Director accepted the amendment request for filing.

## **STAFF RECOMMENDATION, MOTION AND RESOLUTION OF APPROVAL OF AMENDMENT**

### **STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends that the Commission **APPROVE** the permit amendment application with special conditions.

### **MOTION:**

***I move that the Commission approve permit amendment CDP #5-03-013-A1 pursuant to the staff recommendation.***

Staff recommends a **YES** vote. This will result in approval of the permit amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

## **RESOLUTION:**

### **I. APPROVAL**

The Commission hereby approves the coastal development permit amendment for the proposed development and adopts the findings set forth below on grounds that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

### **II. SPECIAL CONDITIONS**

#### **A. PRIOR CONDITIONS**

Unless specifically altered by this amendment, all standard and special conditions attached to Coastal Development Permit 5-03-013 remain in effect. All standard and special conditions previously imposed under CDP 5-03-013 apply equally to the amendment.

**B. MODIFY SPECIAL CONDITION 2 OF 5-03-013, AS INDICATED BELOW:**

Additions shown in ***bold italic underline***, deletions shown in ~~strikeout~~

**2. OFFER TO DEDICATE IN FEE TO THE CITY OF SAN CLEMENTE OPEN SPACE FOR PARKS, PUBLIC ACCESS AND HABITAT ENHANCEMENT**

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, and in order to implement the permittee's proposal, the permittee shall submit to the Executive Director, for review and approval, a proposed document(s) irrevocably offering the dedication of fee title over the areas identified below to the City of San Clemente, and/or other public agency or non-profit entity acceptable to the Executive Director, for parks, public access, passive recreational use, habitat enhancement, trail, public parking and street purposes. Once the documents irrevocably offering to dedicate the areas identified below are approved, and also PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit evidence that it has executed and recorded documents in a form and content acceptable to the Executive Director completing that offer to dedicate. The land shall be offered for dedication subject to the restrictions set forth in the special conditions of this permit, and the offer to dedicate shall reflect that fact. The offer shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The entirety of the following land shall be offered for dedication to the City, and/or other public agency or non-profit entity acceptable to the Executive Director pursuant to this condition: all of the land described as 'public open space', 'general open space', and 'roads (public)' in the land use summary on proposed Amended Tentative Tract No. 8817 dated February 14, 2003 submitted by the applicant.
- B. Prior to the issuance by the City of San Clemente of the 200th certificate of occupancy of any residential unit approved by this permit, or 4 years from the date of issuance of this coastal development permit, whichever comes first, the permittee shall submit evidence that it has ***documents have been*** executed and recorded ~~documents in a form and content acceptable to the Executive Director~~ completing the transfer of fee title over the ***following portions of*** land identified in part A of this condition to the City of San Clemente and/or other public agency or non-profit entity acceptable to the Executive Director; ***Lots E, F, N, R, KK, LL, MM, and YY on Amended Tentative Tract No. 8817 dated February 14, 2003. The remaining lots identified in part A of this condition (i.e. Lots D, I, J, M, O, P, RR, SS and TT on Amended Tentative Tract No. 8817 dated February 14, 2003) may be transferred to the City of San Clemente and/or other public agency or non-profit entity acceptable to the Executive Director at a later date within the 21 year period that the offer remains valid. If any offer expires without being accepted, such expiration shall not void the restrictions on use of the property imposed by the remaining special conditions of this permit and said restrictions shall remain in full force and effect.***

**C. MODIFY SPECIAL CONDITION 3 OF 5-03-013, AS INDICATED BELOW:**

Additions shown in **bold italic underline**, deletions shown in ~~strikeout~~

3. OFFER TO DEDICATE TRAIL EASEMENTS OVER THE AREA DESCRIBED IN CONDITION 1.C

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall execute and record document(s) in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for public pedestrian and, where noted, bicycle access and passive recreational use of the corridors described below, but excluding from the offer any portion of a trail **within Lots E, F, N, R, KK, LL, MM, and YY on proposed Amended Tentative Tract No. 8817 dated February 14, 2003 submitted by the applicant** that ~~shall~~ **are required to be offered for dedication** ~~be dedicated~~ to the City of San Clemente **and/or other public agency or non-profit entity acceptable to the Executive Director** in accordance with Special Condition 2 of this permit. The recorded document(s) shall include legal descriptions of both the permittee's entire parcel(s) and the easement area. The recorded document(s) shall also reflect that development in the offered area is restricted as set forth in the Special Conditions of this permit. The offer shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The lands to be offered for public trails and bikeways are generally depicted on Marblehead Coastal, Amended Tentative Tract No. 8817, Sheets 1 and 2, dated February 14, 2003 and Marblehead Coastal Amended Residential Site Plan #97-16, plot date February 14, 2003. Except as noted on the plans identified above, all pedestrian trails shall have a minimum 10 foot wide corridor with a minimum 8 foot wide improved trail. Widths of bicycle corridors and trails shall be as described on Tentative Tract 8817.

The lands identified in this dedication shall be maintained in accordance with the final maintenance and funding program approved by the Executive Director in accordance with Special Condition 4.

**D. MODIFY SPECIAL CONDITION 5 OF 5-03-013, AS INDICATED BELOW:**

Additions shown in **bold italic underline**, deletions shown in ~~strikeout~~

5. COVENANTS, CONDITIONS, AND RESTRICTIONS (CC&R'S), AND FINAL TRACT MAPS.

- A. Consistent with the applicant's proposal, the applicant shall establish covenants, conditions and restrictions (CC&R's), or an equivalent thereof, for the proposed residential lots and proposed regional commercial lots to address ownership and management of open space lots not **offered for dedication** ~~dedicated~~ to the City of San Clemente pursuant to Special Condition 2. The CC&R's shall reflect the requirements of this coastal development permit, including but not limited to the limitations on the development of the open space lots **and the public access requirements thereto** as proposed by the applicant and as conditioned by this permit.
- B. Subject to the review and approval of the Executive Director, where feasible, the applicant shall consolidate proposed open space lots that are contiguous with one

- another and that are to be held by a common owner.
- C. The CC&R's for the 313 proposed residential lots and all open space lots within the coastal zone not given to a public entity pursuant to Special Condition 2 above, except proposed lots SSS, UUU and VVV, shall indicate that: ... [no intervening changes]...
  - D. The CC&R's (or equivalent) for the regional commercial center and proposed open space lots SSS, UUU and VVV, shall indicate that: ... [no intervening changes]...
  - E. Consistent with the applicant's proposal, as soon as a homeowner's association or similar entity comprised of the individual owners of the 313 proposed residential lots is created, the applicant shall transfer title to the lots described in paragraph C to that entity. ... [no intervening changes]...
  - F. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, and prior to recordation of any CC&R's, parcel maps or tract maps associated with the approved project, said CC & R's and Tract and parcel maps shall be submitted to the Executive Director for review and approval. ... [no intervening changes]...
  - G. Simultaneous with the recording of the final tract map(s) approved by the Executive Director, the permittee shall record the covenants, conditions and restrictions approved by the Executive Director, against the property.

**E. MODIFY SPECIAL CONDITION 9 OF 5-03-013, AS INDICATED BELOW:**

Additions shown in ***bold italic underline***, deletions shown in ~~strikeout~~

9. **CONSTRUCTION STAGING AREA AND FENCING**

- A. All construction plans and specifications for the project shall indicate that impacts to wetlands and environmentally sensitive habitats shall be avoided and that the California Coastal Commission has not authorized any impact to wetlands or other environmentally sensitive habitat. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit a final construction staging and fencing plan for the review and approval of the Executive Director which indicates that the construction in the construction zone, construction staging area(s) and construction corridor(s) shall avoid impacts to wetlands and other sensitive habitat consistent with this approval. The plan shall include the following requirements and elements::
  - 1. Wetlands and any other environmentally sensitive habitats shall not be affected in any way, except as specifically authorized in this permit.
  - 2. Prior to commencement of construction, temporary barriers shall be placed at the limits of grading adjacent to ESHA. The barriers shall be a minimum 8 feet tall and one-inch thick in those areas adjacent to occupied gnatcatcher habitat. Solid physical barriers shall be used at the limits of grading adjacent to all other ESHA. Barriers and other work area demarcations shall be inspected by a qualified biologist to assure that such barriers and/or demarcations are installed consistent with the requirements of this permit. All temporary barriers, staking, fencing shall be removed upon completion of construction.
  - 3. No grading, stockpiling or earth moving with heavy equipment shall occur within ESHA, wetlands or their designated buffers, except as noted in ***Special Condition 17 and*** the final habitat management plan approved by the Executive Director.
  - 4. No construction materials, debris, or waste shall be placed or stored where it may enter sensitive upland habitat or wetlands, storm drain, receiving waters, or

- be subject to wind erosion and dispersion;
5. **Except for the allowances provided in Special Condition 17, No** construction equipment shall be stored within any ESHA, wetlands or their buffers.
  6. The plan shall demonstrate that... [no intervening changes]...
  7. The plan shall include, at a minimum, the following components... [no intervening changes]...

B. The permittee shall undertake development ... [no intervening changes]...

**F. MODIFY SPECIAL CONDITION 10 OF 5-03-013, AS INDICATED BELOW:**

Additions shown in **bold italic underline**, deletions shown in ~~strikeout~~

10. **FINAL HABITAT MANAGEMENT PLAN**

- A. The permittee shall implement and comply with the habitat protection, enhancement and loss mitigation measures in the final habitat preservation and mitigation plan (i.e. final habitat management plan) approved by the Executive Director, the primary elements of which are described within the documents titled Marblehead Coastal Project Habitat Management Plan dated November 28, 2001, as amended (most recent amendment is dated February 14, 2003), and Protection and Enhancement Plan for Upland ESHA dated February 2003 with Addendum dated February 13, 2003, which implements the preservation or creation of the following habitat within the coastal zone at the project site: preserve 10.26 acres of existing CSS habitat, create **63.85 to** 64.22 acres of CSS habitat on-site (no further disturbance), plus **1.19 to** 1.23 acres of CSS habitat on-site that may be subject to periodic disturbance for fuel management and utility maintenance, plus **1.38 to** 1.68 acres of CSS off-site; preserve 0.62 acres of native perennial grassland and create 4.3 acres of native perennial grassland (of which 3.26 **to 3.73** acres may be subject to periodic disturbance for fuel modification **and utility maintenance**); preserve 5.21 acres of wetland habitat; create 0.2 acres of alkali meadow wetlands within the canyons; and create 1.72 acres of wetland and 2.90 acres of wetland/mixed riparian scrub within the proposed detention basins; and which shall be modified as described below and elsewhere within these special conditions.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit a revised, final habitat management plan for review and approval by the Executive Director. The final habitat management plan shall be developed in consultation with the California Department of Fish & Game and U.S. Fish & Wildlife Service. The final habitat management plan shall substantially conform with the Habitat Management Plan dated November 28, 2001, as amended, and the Protection and Enhancement Plan for Upland ESHA dated February 2003 with Addendum dated February 13, 2003, except that it shall be modified as follows:
  1. Wetlands shall have 100-ft wide buffers (horizontally), except at the "slot" canyon (generally within proposed Lots C and D of proposed Tract 8817), where a minimum 50-foot wide buffer shall be required. Except for the proposed bridge pilings for proposed Avenida Vista Hermosa, the installation of utilities near the mouth of Marblehead Canyon, and except for habitat restoration and maintenance and construction and maintenance of public trails, there shall be no development, including grading or fuel modification, in the wetland buffers. However, prior to construction of the utilities, the permittee shall submit a

hydrologic analysis for review and approval of the Executive Director which demonstrates that the construction of the utilities in the areas identified as 8 and 9 on Exhibit 19c to the findings adopted on June 11, 2003 in support of their original permit shall have no negative effects on wetland hydrology.

2. Upland ESHA shall have 100-foot wide (horizontally) buffers, where feasible...[no intervening changes]...
8. Grading Adjacent to CSS-ESHA: There shall be no grading within 100 feet of native scrub habitats that occur within ESHA boundaries during the gnatcatcher breeding season(considered to be from February 15 through August 31), if gnatcatchers are present. During the non-breeding season(September 1 through February 14), ESHA defined by historical gnatcatcher use shall be shielded from the sight and sound of construction activities taking place within 50 feet of the ESHA using the techniques proposed by the applicant in the documents identified above. Grading Associated with Non-ESHA CSS: Approved clearing of non-ESHA CSS shall occur outside of the gnatcatcher breeding season. Subject to the review and approval of the Executive Director, clearing of CSS more than 100 feet from Environmentally Sensitive Habitat Area shown on Exhibit 19 of the findings adopted on June 11, 2003 for the original permit may occur during the gnatcatcher breeding season, if the contingency measures given in subsection 9 of this condition are implemented to minimize impacts to gnatcatchers. ...[no intervening changes]...
23. The permittee shall implement a perpetual management, maintenance and monitoring plan for the habitat management plan area. The plan shall include a description of the perpetual management, maintenance and monitoring actions. The permittee shall also establish a non-wasting endowment in favor of ~~the State of California~~ a public agency, non-profit organization, or other entity approved by the Executive Director for an amount determined in consultation with the Resources Agencies and approved by the Executive Director based on a Property Analysis Record (PAR) (Center for Natural Lands Management ©1998) to secure the ongoing funding for the perpetual management, maintenance and monitoring of the habitat management plan area by an agency, non-profit organization, or other entity approved by the Executive Director. The non-wasting endowment shall be no less than the proposed \$1,000,000 (one million dollars)~~250,000 plus an amount equal to \$75 per dwelling per year (adjusted annually consistent with the Consumer Price Index)~~ for each residential unit. Until a qualified management entity is identified, the permittee shall be responsible for such management.
24. The permittee shall develop a resident education program. ...

[no intervening changes]...

#### G. MODIFY SPECIAL CONDITION 11 OF 5-03-013, AS INDICATED BELOW:

Additions shown in **bold italic underline**, deletions shown in ~~strikeout~~

#### 11. LANDSCAPE REQUIREMENTS

- A. All areas disturbed and/or denuded by the development shall be re-vegetated and maintained to protect habitat and to prevent erosion into habitat areas, wetlands, and coastal waters. Such re-vegetation shall occur in accordance with the requirements of the special conditions of this permit. Furthermore, undisturbed areas shall be re-vegetated in accordance with the final Habitat Management Plan approved by the



Executive Director. All required plantings shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials that conform to the requirements of the special conditions of this permit.

- B. Except for landscaping ~~on~~ within 1) the non-open space lots in the regional commercial development, 2) ~~and~~ the private residential lots within TTM 8817, 3) within the right-of-way of Avenida Pico and Avenida Vista Hermosa, and for approved-turf authorized by this permit within the park areas, all landscaping (including temporary erosion control and final landscaping) for the entire development covered by this permit shall be of plants native to coastal Orange County and appropriate to the natural habitat type. Native plants used for landscaping shall be obtained, to the maximum extent practicable, from seed and vegetative sources on the project site. No plant species listed as problematic and/or invasive by the California Native Plant Society, California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be utilized anywhere within the proposed development area, including the landscaping within the regional commercial development and private residential lots of TTM 8817 and the park 'excepted' areas noted in the first sentence of this paragraph. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized anywhere within the proposed development area, including the private residential lots of TTM 8817 and the park areas 'excepted' areas noted in the first sentence of this paragraph. Use of drought tolerant and native plant species is encouraged within the private residential lots and within approved turf areas in parks.
- C. For visual purposes, prior to the issuance of the coastal development permit, a visual enhancement plan shall be submitted ...[no intervening changes]
- D. Temporary Erosion Control Landscaping. ...[no intervening changes]
- E. Timing of Final Landscaping. ...[no intervening changes]
- F. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit landscape palette lists to be incorporated into the landscaping guidelines detailed in Special Condition 11.E. subject to the review and approval of the Executive Director, that identify: 1) the native plant species that may be planted in the development; 2) a representative list of the non-native, non-invasive common garden plant species that may be planted in the residential and commercial lots and the rights-of-way of Avenida Pico and Avenida Vista Hermosa; 3) the non-native, non-invasive turf that may be planted within approved turf areas in parks, and 4) the invasive plant species that are prohibited from use anywhere within the development. The landscape palette for the development shall be consistent with the lists of approved plants as reviewed and approved by the Executive Director. These lists shall remain available for public consultation at the California Coastal Commission, the City of San Clemente, any homeowners association(s) established for the development, and from the on-site naturalist for the Project. Additions to or deletions from these lists may be made by the Executive Director of the California Coastal Commission, in consultation with the project's restoration ecologist and the resource agencies. No deviations from the list shall occur in the plantings on the site without an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

- G. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit for review and approval by the Executive Director final landscaping and erosion control plans for the entire project (e.g. open spaces, parks, trail corridors, common open spaces, graded and disturbed areas, and the commercial and residential development). ...[no intervening changes]
- H. PRIOR TO SUBMITTAL OF FINAL LANDSCAPE PALETTE LISTS, LANDSCAPE PLANS, AND TEMPORARY EROSION CONTROL PLANS, the permittee shall obtain the review and approval of those lists and plans by...[no intervening changes]
- I. CONCURRENT WITH SUBMITTAL OF ALL PLANS IDENTIFYING LANDSCAPING, the permittee shall provide an analysis of each plan submitted...[no intervening changes]
- J. Monitoring. ..[no intervening changes]

**H. MODIFY SPECIAL CONDITION 15 OF 5-03-013, AS INDICATED BELOW:**

Additions shown in **bold italic underline**, deletions shown in ~~strikeout~~

15. **PUBLIC ACCESS AND RECREATION IMPROVEMENTS AND SIGNAGE**

- A. The applicant shall ensure the construction of the public access and recreation improvements for park and trail purposes... [no intervening changes]...
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit revised final, detailed plans of the public access and recreation improvements for park and trail purposes for review and approval by the Executive Director. All facilities constructed shall be sited and designed to minimize disturbance to adjacent habitat areas and to minimize the obstruction of public views. All facilities shall conform with the final habitat management plan approved by the Executive Director. Plans shall identify all structures including location, dimensions, materials and colors, and use as well as sign text, size and orientation. All plans shall be of sufficient scale and detail to verify the location, size and content of all signage, and the location, size, materials and use of structures during a physical inspection of the premises. The plans shall be revised to incorporate any additional trails, open space and park areas required by the Special Conditions of this permit. Said plans shall have received prior review and approval by the City of San Clemente and shall reflect the City's final plans relative to the parks and trails. Development which is not specifically shown on the final plans which are reviewed and approved by the Executive Director and which the City intends to construct within the park shall require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required. The final plans shall also comply with the following:
  - 1. Public Recreational Facilities: The final plans submitted for review and approval by the Executive Director shall include detailed plans identifying all recreational and support amenities such as picnic tables, outdoor cooking facilities, trash facilities, children's play facilities, restrooms, sports courts, recreational buildings, hardscape, etc. In addition to any other modifications necessary to comply with the special conditions of this permit, the following modifications shall be incorporated into the public recreational facilities plan:

- i. At minimum, restrooms shall be located within proposed Lot F and within proposed Lot N of proposed Tract 8817 **An additional restroom may be located at Lot R of proposed Tract 8817 provided the restroom complies with all applicable requirements established in this permit (e.g. ESHA buffers, fuel modification)**;
  - ii. Turf shall not be installed within the proposed turf area (Lot I) seaward of the central detention basin. [no intervening changes]...;
  - iii. All turf within the 50 foot ESHA buffer, such as the area of proposed Lot N adjacent to the western canyon, shall be eliminated. [no intervening changes]...
2. Public Trail Plan: The final plans submitted for review and approval by the Executive Director shall include detailed trail improvement plans for both interim (as necessary) and final phases. ...[no intervening changes]

**I. MODIFY SPECIAL CONDITION 17 OF 5-03-013, AS INDICATED BELOW:**

Additions shown in **bold italic underline**, deletions shown in ~~strikeout~~

**17. AVENIDA VISTA HERMOSA BRIDGE REQUIREMENTS AND PLAN REVISIONS**

- A. All development associated with the construction of the proposed Avenida Vista Hermosa Bridge shall maintain a minimum 25 foot horizontal setback from wetlands and a minimum 61 foot vertical clearance from the wetland surface, **except as allowed below**. Also, the permittee shall maximize public views available to motorists, bicyclists and pedestrians from the proposed bridge through the installation of bridge rails that minimize visual obstructions for bridge users. Furthermore, the bridge shall be constructed with materials that are colored and textured to be compatible with the canyon. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit revised plans to the Executive Director for review and approval. The revised plans shall incorporate the above requirements **and also the following exceptions** and show the following changes to the Avenida Vista Hermosa bridge:
1. **Except for the limited, temporary, construction related encroachments described in a memorandum by Glenn Lukos Associates dated November 29, 2004 and a letter prepared by RBF Consulting dated November 29, 2004 and upon plans referenced therein, A**all development shall maintain a minimum 25 foot horizontal setback from wetlands and a minimum 61 foot vertical clearance from the wetland surface;
  2. The bridge should be designed to provide suitable habitat for locally occurring bat species...[no intervening changes]...

**J. MODIFY SPECIAL CONDITIONS 1 TO 33 AS FOLLOWS:**

Add a note to the beginning of the conditions stating that "References to 'this permit' in these permit conditions are references to the permit as amended, except where otherwise indicated."

**K. MODIFY SPECIAL CONDITION 1.E. AS FOLLOWS:**

Additions shown in ***bold italic underline***, deletions shown in ~~strikeout~~

**1. OPEN SPACE, HABITAT, PARKS, AND PUBLIC ACCESS REQUIREMENTS**

**A. Open Space Restriction – Habitat Restoration Areas**

No development, as defined in Section 30106 of the Coastal Act shall occur within the land identified as the habitat restoration areas...[no intervening changes]...

**B. Open Space Restriction and Access Requirement –Residual Open Space & Park Areas-**

No development, as defined in Section 30106 of the Coastal Act shall occur within the areas of the proposed open space lots...[no intervening changes]...

**C. Public Trails and Bikeways**

No development, as defined in Section 30106 of the Coastal Act, shall occur within the access corridors...[no intervening changes]...

**D. Streets, Roads and Public Parking Areas**

Streets, roads and parking shall be provided as described on Tentative Tract 8817, dated February 14, 2003. All publicly and privately maintained streets, roads and public parking areas identified in Tentative Tract 8817 shall be for public street purposes...[no intervening changes]...

**E. PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS PERMIT**, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, formal legal descriptions and graphic depictions of the portions of the subject property affected by this condition, as generally described above and shown on Exhibit 4 attached to the findings ***adopted on June 11, 2003*** in support of approval of the ~~is~~ ***original*** permit.

**III.FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

**A. SITE AND PROJECT DESCRIPTION**

The Marblehead site is a 247.88 acre property (201.38 acres in the coastal zone) located between El Camino Real (a.k.a. Pacific Coast Highway) to the southwest, Avenida Pico to the southeast, the Interstate 5 freeway to the northeast, and the Colony Cove residential subdivision to the northwest (Exhibit 1). The site is roughly square and consists of an upland bluff top mesa which is incised by one large canyon (Marblehead Canyon) and several smaller canyons and drainages. The southwestern boundary of the project site (along El Camino Real) consists of 70 to 100 foot high coastal bluffs that are intersected by the mouths of the on-site canyons and drainages. The bluffs are separated from the beach by El Camino Real, the train tracks, and a private gated mobile home park (Capistrano Shores); therefore, the bluffs do not provide direct access to the beach, nor is the previously graded coastal bluff presently subject to marine processes. The closest beach access is at North Beach, which is across the street and south of the bluffs. North Beach is a popular beach area that contains public beach parking and a Metrolink train station. The project site is the last large, vacant, privately owned area of land in the coastal zone in the City of San Clemente, and among the largest vacant privately owned lands in coastal Orange County<sup>1</sup>.

<sup>1</sup> Bolsa Chica in Huntington Beach and Banning Ranch in the Newport Beach area are larger at approximately 308 and 412 acres, respectively.

In April 2003, the Commission approved Coastal Development Permit 5-03-013, with conditions, for a comprehensive residential and commercial development, public park, trails and open space and associated infrastructure including roads and utilities on the 247.88 acre Marblehead site in the City of San Clemente, Orange County. While the project is an integrated development, about 201.38 acres are located within the coastal zone, therefore, only the portion of the development in the coastal zone required a coastal development permit. The approval authorized a property subdivision and construction of 313 single family homes on 44.24 acres; 141,506 square feet of commercial space in ten commercial buildings on 22.3 acres; 15.43 acres of public parks; 95.04 acres of public and private open space and pedestrian and bicycle trails; 12.43 acres of private streets; and 10.91 acres of public streets. Findings in support of the Commission's approval were adopted on June 11, 2003. The applicant is presently in the process of complying with the 'prior to issuance' special conditions, however, the permit has not yet been issued and will expire in April 2005 unless the applicant applies for and the Commission grants a 1-year permit extension.

Since approval, the applicant has sought to rectify discrepancies between the Commission's authorization and the City's prior approvals. In obtaining updated approvals from the City, certain additional changes were made to the project that cannot be implemented with the Commission's approval. In addition, with final engineering and preparation of construction-level plans certain other changes were found necessary by the applicant. The applicant is now seeking authorization of the various changes, which are described more fully below:

**1. Subdivision - Tentative Tract 8817**

a) Prior Approval (5-03-013)

The previously approved subdivision included 313 residential lots ranging in size from 3,364 to 20,517 square feet and totaling 44.24 acres (entirely within the Coastal Zone); 28 commercial lots (Lots 352 through 379 ranging in size from 0.54 to 4.23 acres and totaling 52.58 acres) of which 15 lots are totally or partially within the coastal zone, and would range from 0.54 to 3.79 acres in size, and total 22.3 acres in the coastal zone, plus 1 acre at El Camino Real and Avenida Pico; 12.75 acres of public street right-of-way (10.91 acres within the Coastal Zone) excluding the right of way for the Avenida Vista Hermosa bridge (0.91 ac); 12.43 acres for privately maintained street right-of-way which would be open to the public; 63 open space lots ranging in size from 0.03 acre to 36.34 acres and totaling 125.88 acres, of which 110.47 acres are within the Coastal Zone, for public park, habitat protection, public access and common area; and an open space lot (Lot X) of 0.24 acre to accommodate the existing driveway access easement to the adjoining church property.

b) Amendment Request (5-03-013-A1)

Within the 22.3 acre commercial area inland of the proposed extension of Avenida Vista Hermosa, the applicant is proposing to re-arrange the previously authorized lot lines as well as reduce the overall quantity of commercial lots to correspond with the modified commercial site plan (Exhibit 4). All changes occur within the previously approved boundary of the commercial area. No changes to the overall footprint of the commercial area are proposed.

In addition, the applicant is proposing to re-configure the lots within the 'courtyard' residential area (i.e. Lots 183 through 313) located adjacent to the existing Shorecliffs Middle School property. These changes will allow for a view corridor (Exhibit #2, Item "K") and additional parking for guests. No change to the quantity of residential lots is proposed and no change to the overall footprint of the residential area is proposed.

## **2. Grading and Site Preparation**

### **a) Prior Approval (5-03-013)**

Previously approved grading included permanent authorization of emergency grading along the bluffs facing upon El Camino Real that occurred under Emergency Coastal Development Permits 5-90-122-G and 5-90-274-G and 1,101,800 cubic yards of cut and 1,070,800 cubic yards of fill (31,000 cubic yards exported from the portion of the site located inside the coastal zone to the portion of the site outside the coastal zone). The footprint of the previously authorized graded area would be 132.47 acres (68.91 acres not graded) including the earthwork for slope stabilization performed under the emergency permits. The approval also included reconstruction of all the existing terrace drains and downdrains that were constructed on the re-contoured bluff face as part of the emergency grading. In addition, the Commission's conditions of approval required the applicant to construct a subdrain along a segment of the western property boundary to intercept subsurface water flows from the subject site into the existing Colony Cove residential area. This previously authorized subdrain was approximately 1,000 linear feet long.

### **b) Amendment Request (5-03-013-A1)**

During the local hearings on the project, residents of a larger, inland segment of the existing neighborhood to the west of the project site (Colony Cove) expressed concerns that increased groundwater, from the proposed development, could adversely affect geologic conditions at their property (i.e. soil expansion). Those residents requested the applicant extend the previously approved westerly property line subdrain further inland to intercept groundwater flows from the applicants property into Colony Cove. Based on known geologic/hydrologic conditions, the applicant's geologist expressed doubts that groundwater flows would manifest problems within this more inland area of Colony Cove. Nevertheless, taking a precautionary approach, the applicant agreed to extend the 1,100 foot westerly subdrain, an additional 800 linear feet (approx.) (Exhibit #2, Item "D"). The already approved, and proposed to be extended subdrain are depicted on a document titled "Subdrain Map" prepared by LGC Associates dated November 9, 2004.

The applicant is now proposing 1,218,000 cubic yards of cut and 1,218,000 cubic yards of fill (2,436,000 cubic yards total). This represents an increase of 116,200 additional cut and 147,200 cubic yards of fill (263,400 cubic yards total) of grading in the coastal zone compared with the previous authorization. The footprint of the graded area would increase from 131.68 acres to 132.48 acres (ungraded area decreases from 69.7 acres to 68.9 acres). The applicant attributes these changes to additional grading necessary to construct the Avenida Vista Hermosa bridge across Marblehead Canyon (discussed below), extension of the previously approved subdrain in order to intercept additional subsurface flows elsewhere along the western property boundary, minor changes to the finished elevation of certain lots and refinements of their estimates resulting from a new survey datum.

## **3. Residential Development**

### **a) Prior Approval (5-03-013)**

Construct 313, single family residences ranging in size from 1,612 to 4,625 square feet and 24 to 29 feet tall on new lots comprised of 44.24 acres of land. Of the 313 units, 182 are detached, two-story single-family homes. The remainder of the homes, on Lots 183 through 313, the applicant received approval for construction of 131 detached, two-story single-family homes arranged in clusters of two to five units around a 'courtyard' area. Each residential lot would

also have landscape and hardscape improvements. The approval included all associated infrastructure including roads, utilities, property boundary walls and fences, and 'community theme walls' (i.e. community boundary walls) and miscellaneous retaining walls.

b) Amendment Request (5-03-013-A1)

On Lots 1 to 182, the applicant has added 3 additional floor plans, for a total of 12 floor plans. No change is proposed to the total height or square footage of the structures.

On Lots 183 through 313 (i.e. the 'courtyard' area) the applicant is proposing to increase the maximum roof line height of the residential structures from 24 feet to 30 feet, plus an additional three feet for the chimney (Exhibit #2). The applicant has added two additional floor plans (for a total of 5), as well.

**4. Commercial Development**

a) Marblehead Commercial Center – Prior Approval:

The approved project included a total 21 commercial buildings on 52.58 acres inside and outside the coastal zone, containing a total of 675,243 square feet of floor area, and associated parking. Six buildings on 22.3 acres -including one retail and five restaurants- are entirely within the coastal zone, while four buildings -three retail and one restaurant- are partially within the coastal zone. The total floor area approved within the coastal zone is 141,506 square feet of which 58,416 is restaurant and 83,090 square feet is retail. Associated infrastructure to serve the commercial development was also authorized including internal circulation roads (and one bridge located outside the coastal zone), parking, walkways and decorative hardscape, landscaping and utilities.

A total of 2,724 parking spaces were proposed within the 52.58 acre commercial area as follows: 557 spaces in a two-level parking structure of which 479 are completely or partially in the coastal zone, and 2,167 surface parking spaces of which 1,253 are completely or partially within the coastal zone.

b) Marblehead Commercial Center–Amendment Request (5-03-013-A1)

The proposed commercial center, including elements both inside and outside the coastal zone, has decreased from a total of approximately 675,000 square feet to 640,484 square feet. Within the coastal zone, the total square footage has decreased from approximately 141,000 square feet to 77,576 square feet. The changes include both different building layouts and different locations compared with the previous approval. Approximately half of the reduction to the square footage is attributable to removal of building service/meeting room area. All of the changes are confined within the previously approved development footprint. The changes are described in more detail on the attached exhibits (Exhibit #2, Item "I", Exhibit 5). One change pertains to the commercial development near the corner of Avenida Pico and proposed Avenida Vista Hermosa, where a public plaza with view overlook was incorporated (Exhibit 6, page 1). The new commercial design modifies this area but retains an ample public plaza with overlook (Exhibit 6, page 2).

The quantity of parking to serve the commercial development would increase from a total of 2,724 spaces to 3,253 spaces (both inside and outside the coastal zone). Parking within the coastal zone would increase from 1,732 spaces to 2,276 spaces.

## 5. Public Roads

### a) Prior Approval (5-03-013)

The prior approval included a new arterial public roadway, Avenida Vista Hermosa. Proposed Avenida Vista Hermosa would be a four-lane, approximately 100 foot wide roadway (100-110 foot wide right of way) with a center median, and landscape parkways, sidewalks and bicycle trails.

In order to construct Avenida Vista Hermosa, one concrete box girder bridge was authorized to be constructed over Marblehead Canyon. This bridge would be approximately 400 feet long<sup>2</sup> (between abutments) and 100 feet wide with 61 to 70 feet of clearance between the bottom of the bridge span and the wetlands below. The bridge was proposed to be founded upon pilings and compacted fill retained by loffelstein retaining walls. There would be a total of six (6) pilings measuring seven (7) feet in diameter all of which are to be located a minimum of 25 feet from the edge of the wetlands located in the canyon bottom. The two proposed loffelstein walls (one on each side of the canyon) would be constructed under the bridge and flanking areas adjacent to the bridge. The wall on the west side of the canyon would measure approximately 160 feet long. The wall on the east side of the canyon would measure approximately 280 feet long. The wetlands are located 100 feet from the toe of the proposed loffelstein walls.

The prior approval also included widening El Camino Real and Avenida Pico along their project frontages, as well as sidewalks and bike lanes. Several public, two-lane roads were also authorized within the residential area including sidewalks, streetscape, and seventy<sup>3</sup> on-street parking spaces available to the public.

### b) Amendment Request (5-03-013-A1)

The applicant is proposing to change the design of the slope that supports the bridge abutments. As noted above, the prior design included several hundred feet of loffelstein walls. The design now proposed would eliminate the loffelstein walls in favor of an excavated and recompacted slope that, upon completion, would match adjacent contours and appear more natural than the wall system. The area disturbed would be restored with native vegetation appropriate to the habitat type. (see Exhibit #2, Item "E", and Exhibit #8)

The design change is occurring, in part, as a result of newly identified construction access requirements that are necessary to construct the 6 previously proposed bridge support pilings as well as the bridge deck that crosses the canyon. During construction of the bridge the applicant will need to install 'falsework' that supports the bridge during its construction. The falsework must be founded on a system of approximately 90 temporary "H-beam" pilings. These temporary structures would be located within the previously prescribed 25-foot wetland setback. However, the installation and removal of the H-beam pilings won't necessitate any grading within the 25-foot setback area. Rather, these temporary pilings would be installed and removed with a vibratory hammer attached to a crane that will work from outside the 25-foot setback area. Some of the falsework would remain within the 25 foot setback during construction, however, all of the equipment would be removed upon completion of the construction of the portion of the bridge that relies upon the falsework (estimated 4 month time period). Once the temporary falsework is removed, the area would be re-planted with native vegetation appropriate to the habitat type.

<sup>2</sup> Glenn Lukos study dated December 4, 2001 states the proposed bridge is 330 feet long. This measurement is the distance between the toe of the loffelstein retaining walls rather than the bridge abutments.

<sup>3</sup> As noted above, the applicant is proposing a total of 80 on-street public parking spaces along the streets within the residential development. Seventy (70) would be along proposed public streets. The remaining ten(10) would be provided along a privately maintained street in the eastern residential enclave.



In order for the crane and other equipment to access the work area described above, the applicant must grade a temporary road down the wall of the canyon on each side of the canyon bottom (no wetland crossing would occur with construction equipment). Since the temporary roads must be graded, the applicant can change the slope stabilization design from a loffelstein wall system to a recompacted slope, as described above. Details of the proposed work are described in the attached exhibit and drawings (see Exhibit #8). The re-compacted slope would match adjacent contours of the canyon wall and the entire disturbed area would be re-vegetated with native plants appropriate to the habitat type. Additional down drains and energy dissipation structures are proposed in the area that is graded to control erosion.

The applicant is proposing to change the design of the six (6) bridge support columns from round to diamond-shaped. These columns would occupy an additional 93 square feet of surface area compared with the round columns. The applicant states the change is occurring to improve the aesthetic appearance of the bridge.

The changes described above would necessitate changes to controls contained within previously imposed special conditions, including those found in Special Conditions 9, 10, and 17.

Other proposed changes to the project include 1) additional street improvements to roads adjacent to the project site including widening Via Socorro and Los Molinos; 2) widening proposed Street EEEE (located within the proposed residential area) from 40.5 feet to 42.5 feet (no change to previously approved limits of grading); 3) widen meandering sidewalks along Avenida Vista Hermosa from 8 to 10 feet and 4) expanding the plant palette for Avenida Vista Hermosa and Avenida Pico streetscapes to include selected non-native plants (see Exhibit #2, Item "F" for area affected and see attached list within Exhibit #7). The change to the plant palette would necessitate changes to Special Condition 11 of the prior authorization.

## **6. Other Infrastructure**

### **a) Prior Approval (5-03-013)**

The prior approval authorized construction of infrastructure including utilities to serve the proposed development such as water lines, reclaimed water lines, gas, electric, sewer, and storm drains with storm water management system. The storm water management system included storm drain catch basins with catch basin inserts, storm water retention basins, underground storm water storage tanks and a valve and telemetry system to control the diversion of dry weather nuisance flows and first flush storm water to the sewage treatment plant for processing and discharge through the South East Regional Reclamation Authority (SERRA) ocean outfall.

### **b) Amendment Request (5-03-013-A1)**

The applicant is proposing three (3) changes to the storm drain system. The first change would re-direct some storm flows along the westerly project boundary (which presently flow to the bluff face) to the proposed storm water detention basin. The second change would add a storm drain along the boundary of the existing middle school site adjacent to the proposed 'courtyard' homes. This storm drain would be located on the existing school district property. The third change would be to change one of the three storm water detention basins to a water quality basin (i.e. that one basin would not function as a detention basin). See Exhibit #2, Item "L".

**7. Open Space, Park, Trails, and Bikeways**

a) Prior Approval (5-03-013)

The Commission approved proposed open space areas, a bluff park, trails and bikeways. Public parks and privately maintained, publicly accessible, on-site open space were proposed within the coastal zone including manufactured slopes within the residential development (5.26 acres), vegetated setbacks and manufactured slopes surrounding the perimeter of the development (8.33 acres), public park areas (15.43 acres), and privately maintained open space areas (81.45 acres) including a Blochman's dudleya habitat reserve and buffer, the central canyon (Marblehead Canyon), Western Canyon, Trident Canyon, water quality detention basins, and the El Camino Real bluff face for a total of 110.47 acres. Within the above identified acreages, the applicant proposed dedication and construction of public park improvements including an ocean view public park having an 8.95 acre area for passive recreational use (Lots I, J, M, N, O, P, R, ZZ), which included turf areas, road access with 70 on-street parking spaces and 21-space public parking lot and restored and enhanced native vegetation, public trails and interpretive facilities; and a 2.63-acre active recreation area public park (Lots D, E and F) containing turf, tot lot, half-court basketball and restroom facility, park furniture; native vegetation and 14-space parking lot and road access; a 1.23 acre public passive view park (Lots RR, SS, TT), that includes turf with park furniture; road access and 10 on-street public parking spaces (previously noted above); public trails and interpretive facilities. The applicant also proposed dedication and construction of an active 'sports' park with components that straddled the coastal zone; the portion in the coastal zone included 2.62 acres (Lots KK – MM) consisting of roadway access, parking (60 spaces) and turf areas. As proposed, the City is responsible for building the parks, but the applicant must fully fund their construction. Finally, the applicant proposed approximately 4.1 miles of public trails extending through the public parks and the other publicly and privately maintained open space areas. These trails were to be fully constructed by the applicant.

b) Amendment Request (5-03-013-A1)

As noted above, the applicant obtained approval for an active 'sports' park at lots KK thru MM in the coastal zone. In total, 60 public parking spaces were to be constructed. The applicant is now proposing to incorporate a universally accessible playground into the park. In part to offset parking requirements for this new playground, the applicant is now proposing to expand the parking lot to add 98 additional spaces (total = 158) for public parking. See Exhibit #2, Item "G".

The applicant is proposing some minor re-alignments to the previously proposed trail network. In addition, the applicant is proposing two (2) new stairway connections to connect the bluff top trail to the mid-bluff trail overlooking El Camino Real. These changes are shown on Exhibit #3 and Exhibit #9). The applicant is also proposing to change the width of the pedestrian bridge crossing over the wetlands near the mouth of Marblehead canyon from 17-feet wide to 6-feet wide, at the request of the California Department of Fish and Game.

In the prior approval, the Commission required the applicant to construct a public restroom to serve the ocean view public park area along the bluffs overlooking El Camino Real and the ocean. Special Condition 15.B.1.i required "...At minimum, restrooms shall be located within ...within proposed Lot N of proposed Tract 8817". Lot N is located near the turf picnic area that is part of the public bluff trail and view overlooks. The City's authorization urged re-location of the restroom to proposed "Lot R" of Tract 8817, which would be approximately 1,000 feet inland of Lot N and adjacent to the western canyon. Rather than re-location, the applicant is proposing to leave the bathroom at Lot N, as required by the condition, and include an additional restroom

at Lot R (Exhibit #2, Item "C").

At the request of the City, the applicant is also proposing to change the requirements relative to the dedication of certain park areas to the City. In the prior approval, the Commission imposed Special Condition 2.A., which required the applicant to offer to dedicate certain areas of land in fee to the City, as was proposed by the applicant, and Special Condition 2.B. which identified a 4-year/200<sup>th</sup> residential unit deadline for final acceptance of the land by the City. The applicant is not requesting any change relative to the offer to dedicate the land. Nor is the applicant requesting any change relative to the restrictions upon use of the land (which are established in Special Condition 1 of the previous authorization). The change would only affect the deadline established in Special Condition 2.B. The applicant is requesting a change such that proposed Lots D, I, J, M, O, P, RR, SS and TT (totaling 9.27 acres) would no longer be required to be accepted by the City, or other public or non-profit entity, within the 4-year deadline (Exhibit #2). The City has indicated at this juncture that it does not desire to accept these areas of land as they would largely be passive park and habitat areas, as opposed to active park areas. The City indicated they only desire to own the active recreational areas within the development. The offer to dedicate would still be recorded on these lots; and the City or other public agency or non-profit entity acceptable to the Executive Director, could accept the lots at any time within the 21-year period the offer is valid. In the interim, those areas of land are proposed to be held in common ownership of the homeowners association. The change would require modifications to Special Condition 2.B, 3 and 5. Special Condition 1 of the permit requires any owner, no matter who the owner is, to manage the lots as public open space. No change to Special Condition 1 is necessary.

#### **8. Habitat Impacts and Mitigation**

##### **a) Prior Approval (5-03-013)**

The applicant proposed to impact 2.98 acres of the 13.7 acres of coastal sage scrub in the coastal zone; as well as obtained final approval for impacts to 3 acres of coastal bluff scrub, 2.5 acres of needlegrass grassland, 0.1 acres of wetlands, and 3.5 acres of Blochman's dudleya that occurred as a result of work authorized by prior emergency permits.

In order to mitigate for the proposed impacts, the applicant developed a habitat mitigation and management plan (Marblehead Coastal Project Habitat Management Plan dated November 28, 2001 and subsequently amended (herein 'Habitat Management Plan' or 'HMP'). The habitat management plan proposed to impact 2.98 acres of CSS habitat, preserve 16.09 acres of habitat (CSS, grasslands and wetlands) and restore 69.88 acres of habitat (including CSS, grasslands and wetlands) in the coastal zone. An additional 4.49 acres of habitat would be restored that would be subject to regular disturbance for fuel modification and utility maintenance. In addition, some off-site areas would be preserved and restored including preserving 0.03 acres of wetlands and creating 1.68 acres of CSS within various public rights of way. Therefore, in total, there would be 92.15 acres of wetland and upland habitat within the project site in the coastal zone upon completion of the proposed project.

Finally, the applicant proposed to create a funding program to manage the preserved and restored habitat. The funding would consist of a \$250,000 non-wasting endowment provided by the applicant. In addition, there would be an annual homeowner fee paid by the homeowners association equal to an average of \$75 per dwelling unit per year for the 313 dwellings. In total, the funding was anticipated to provide approximately \$39,000 per year to support the management efforts.

b) Amendment Request (5-03-013-A1)

Engineering refinements have required some minor adjustments to the proposed HMP. These refinements include additional drainage ditches (that are no longer counted in the total mitigation acreages). These changes have adjusted the total acreages of restored areas as follows: total restored vegetation (no future disturbance) from 69.88 to 69.01 acres, total restored vegetation (some future disturbance for fuel modification/utility access) from 4.49 to 5.04 acres, total off-site CSS restoration from 1.68 acres to 1.38 acres. Total overall habitat involved in the project including preserved and restored habitat goes from 92.15 acres to 91.59 acres. Special Condition 10 would need to be modified to reflect these adjustments.

The applicant is also proposing to change the funding program for the habitat management efforts from the \$250,000 initial endowment plus annual \$75 per home fee to an initial endowment of no less than \$1,000,000 but no annual fee per home. The final required endowment would be based upon a needs analysis that estimates management costs, including contingencies, prepared by the Center for Natural Lands Management. The applicant anticipates the larger initial endowment will provide greater annual funding than the prior program. Special Condition 10 would need to be modified to reflect these adjustments.

**9. Fire Hazard Management**

a) Prior Approval (5-03-013)

The Commission authorized a limited fire fuel management plan. That fuel management plan had no impacts to existing CSS and wetland habitat to be preserved. In addition, a majority of the restored CSS habitat (about 64.22 acres) would not be subject to any fuel modification requirements. However, a 3.26 acre FMMZ I irrigated plant zone and approximately 0.28 acres of restored CSS habitat were subject to fuel modification requirements (identified as FMMZ II and FMMZ III zones). All such fuel modification allowed is located outside of the 100 foot wetland buffer and is not located in any area identified as terrestrial ESHA or ESHA buffer or within required habitat mitigation areas.

b) Amendment Request (5-03-013-A1)

Due to proposed changes to the design of the commercial development, certain limited changes to the fuel management plan are proposed. For instance, the fuel modification of CSS is decreasing from 0.28 acres to 0.25 acres. Again, all fuel modification is located outside of the 100 foot wetland buffer and is not located in any area identified as terrestrial ESHA or ESHA buffer or within required habitat mitigation areas.

**B. BIOLOGICAL RESOURCES**

Section 30240 of the Coastal Act states that:

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

*(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

### **1. Habitat Areas on the Marblehead Site**

There are several plant communities that are found on the Marblehead site including coastal bluff scrub, sagebrush scrub, southern willow scrub, coyote bush scrub, saltbush scrub, and other mixed scrubs, annual grassland, native needlegrass grasslands, and mixed grasslands, alkali marsh, freshwater marsh, mulefat scrub, non-native Aleppo Pine woodland, and disturbed ruderal habitat. In addition to these habitat areas, one sensitive non-wetland plant species was identified, Blochman's dudleya.

### **2. Environmentally Sensitive Habitat Areas**

Environmentally sensitive habitat areas are defined in Section 30107.5 of the Coastal Act, as follows:

*"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Section 30240 of the Coastal Act requires that environmentally sensitive habitat areas be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. It also regulates the siting and design of adjacent development that could degrade ESHA or be incompatible with its continuance.

As discussed in the Commission's findings for approval, adopted on June 11, 2003 and incorporated here by reference, ESHA on the project site is comprised of the following: 1) all wetland areas in the coastal zone; 2) areas of suitable habitat observed to be used by the coastal California gnatcatcher during the breeding season, immediately contiguous habitat, and inclusions of non-native habitat or bare dirt; 3) areas containing Blochman's dudleya; 4) areas containing coastal bluff scrub; 5) areas containing needlegrass grassland; and 6) areas containing California sagebrush except for extremely small isolated patches not used by the California gnatcatcher and patches directly beneath non-native pines or eucalyptus trees. The final ESHA determination made by the Commission is depicted in Exhibit 19d of the June 11, 2003 findings and is incorporated here by reference.

### **3. Potential Effects of the Amendment Request**

The proposed amendment includes several elements that would lead to different but not 'additional' impacts compared with the prior authorization. The first such change pertains to the alternative trail alignments and the additional trail connections proposed to connect the bluff top and mid-bluff trails along the El Camino Real bluff face. The second such change relates to the additional grading and construction activity associated with the Avenida Vista Hermosa bridge. Impacts resulting from this change are discussed in the 'Wetlands' section of these findings (see Section III.C). The third change pertains to the applicants' request to modify the timing of previously proposed land dedications to the City of San Clemente.

### **4. Analysis**

#### **a) Section 30240 (a)**

To ensure compliance with Section 30240 of the Coastal Act, development (aside from resource dependent uses) must be located outside of all environmentally sensitive habitat areas and must not cause significant disruption of the habitat values within those areas. Further, development adjacent to an ESHA must be sited to prevent impacts to the ESHA that would

significantly degrade those areas, in part through the provision of a setback or buffer between the ESHA and the development. The buffer must be of an adequate size to prevent impacts that would degrade the resources. The width of such buffers would vary depending on the type of ESHA and on the type of development, topography of the site, and the sensitivity of the resources to the particular kind of disturbance. Section 30240(a) of the Coastal Act requires that environmentally sensitive habitat areas be protected against any significant disruption of habitat values and that only uses dependent on those resources can be allowed within ESHA.

**(1) Proposed Trails**

Under the prior authorization, the applicant proposed and the Commission approved the project contingent upon preservation of significant portions of existing canyons, drainages and level bluff top areas that provide habitat for a variety of sensitive plant and animal life. An extensive restoration project was also proposed that is anticipated to significantly improve the quality of the habitat now present. The previously authorized public trail network included alignments that wind around the drainages and along the bluff edge providing trail users the opportunity to view and study the habitat areas and enjoy expansive ocean views. The recreational and educational experience available to trail users is significantly enhanced by circulation through the habitat areas. In that case, the Commission found that the public trails, with their nature study component, could be viewed as resource dependent uses. While the trails pass through the open spaces, the principal use of the open space remains habitat conservation.

The applicant is proposing to slightly modify the proposed trail network, as shown on the attached Exhibit #3. The most significant change relative to the modified trail network is associated with a modified trail connection located on the bluff face between the mouths of the trident canyon and the western canyon. The new alignment includes wood stairs, in place of a meandering trail, to provide a more direct linkage between the bluff top trail and the mid-bluff trail. As described in a memorandum dated December 1, 2004, prepared by Glenn Lukos Associates, the applicant has designed the new trail linkage to avoid existing salt bush and to avoid impacts to ESHA (Exhibit #9).

Another new trail linkage is proposed between the mouth of the trident canyon and the mouth of Marblehead canyon, along the El Camino Real bluff face. This linkage would consist of a new stairway between the bluff top trail and the mid-bluff trail, upon the portion of the El Camino Real bluffs that were graded and stabilized under the emergency permits issued in the 1990's. The new linkage would not disrupt any existing ESHA and would not degrade the quality of the restored habitat planned upon the bluffs in this area.

**(2) Habitat Restoration & Management**

The previously approved project included the preservation of about 10.43 acres of existing native vegetation and the restoration/creation of about 64 acres of coastal sage scrub habitat as well as restoration/creation of about 6 acres of other habitat including native perennial grasslands. Some of this habitat restoration would occur within the boundaries of areas identified as ESHA. The restoration would require removal of existing non-native vegetation, light soil scraping in some cases, and the installation of new plants through seeding and container plants. The applicant has proposed minor adjustments to the total quantity of habitat restoration. These minor adjustments would not result in adverse effects upon ESHA and would remain dependent on the resource and are compatible with the continuance of the ESHA. Amendment condition II.F indicates that Special Condition 10 has been modified to reflect the revised restoration quantities.

Also, one change to the HMP includes a utility line within an area of native grass restoration that was previously allowed to serve for fuel modification purposes. This native grass area doesn't count toward any mitigation requirement and is not within any existing ESHA.

In addition, the applicant has proposed a change to the funding for the proposed habitat management plan. The proposed funding system would provide equal or better funding for the management plan. Amendment condition II.F indicates that Special Condition 10 has been modified to reflect the revised funding system.

In the prior authorization, the applicant proposed to place preserved and restored habitat within open space and park lots within the proposed subdivision. Certain lots were proposed to be transferred in fee to the City. Previously imposed Special Condition 2 memorialized this proposal and required dedication of all the proposed park areas in fee to the City by a certain deadline. Furthermore, in order to assure that the open space lots that will not be dedicated to the City are managed as open space and are not developed in a manner inconsistent with the preservation of open space, the Commission previously imposed Special Condition 5. Special Condition 5 outlines the procedures the permittee is required to follow with respect to the final tract maps, parcel maps, and CC&Rs.

At the time of the prior authorization, the applicant advised the Commission that the City was willing to accept the lands identified in Special Condition 2 along with the identified management responsibilities. Since that time, the City has indicated their preference to forego ownership of lands that are largely habitat, as opposed to active recreational use areas, and leave management of such lands in the hands of an entity experienced with habitat management. The applicant's request to omit the previously identified 4-year/200<sup>th</sup> unit deadline with respect to these lands would not change the required use and management of those lands for habitat (and passive recreational) purposes. Therefore, through amendment conditions II.B and II.D the Commission modifies Special Conditions 2 and 5, accordingly.

b) Section 30240(b)

In addition to protecting the ESHA itself, Section 30240 of the Coastal Act requires that development adjacent to ESHA be sited and designed to prevent impacts that would significantly degrade those areas, and shall be compatible with the continuance of those habitat areas.

The previously authorized project includes revegetation within the proposed open spaces, landscaping of the common areas within the commercial and residential subdivision, as well as landscaping along proposed roads. The use of non-native and invasive plant species within

new development can cause adverse on-site and off-site impacts upon natural habitat areas. Non-native and invasive plant species can directly colonize adjacent natural habitat areas. In addition, the seeds from non-native and invasive plant species can be spread from the developed area into natural habitat areas via natural dispersal mechanisms such as wind or water runoff and animal consumption and dispersal. These non-native and invasive plants can displace native plant species and the wildlife which depends upon the native plants. Non-native and invasive plants often can also reduce the biodiversity of natural areas because –absent the natural controls which may have existed in the plant's native habitat- non-native plants can spread quickly and create a monoculture in place of a diverse collection of plant species.

The Commission previously imposed Special Condition 11, which required the permittee and all successors in interest to use plants that are native to coastal Orange County and the habitat type within all vegetated areas located outside of the non-open space lots in the regional commercial development and the individual residential lots. Meanwhile, previously imposed Special Condition 11 does allow the use of non-native plant species within the non-open space lots in the regional commercial development and the residential lots so long as those non-native species are also non-invasive. Avoiding the use of invasive species within the commercial development and the residential lots reduces the risk that adjacent habitat areas would be overtaken by non-native plants. Prohibition of the use of invasive plants species within the commercial development and the residential lots combined with the native habitat buffer areas which encircle and separate the residential and commercial development from the habitat areas minimizes the risk that non-native plants will spread into and displace adjacent sensitive habitat.

The previously imposed special condition restricted the types of plants that could be used to landscape Avenida Vista Hermosa and Avenida Pico to native plants appropriate to the habitat type. The City has requested, and the applicant has proposed, to expand the landscaping plant palette within these public street rights of way to include non-native species such as New Zealand Christmas Tree (*Metrosideros excelsus*), Mexican Fan Palm (*Washingtonia robusta*), Orchid Rockrose (*Cistus purpureus*), and Russian Sage (*Perovskia atriplicifolia*). The above listed species have been identified by various organizations as invasive or potentially invasive and pose a threat to adjacent ESHA. Other proposed species, such as Coral Aloe (*Aloe striata*), Red Yucca (*Hesperaloe parviflora*), Rosemary (*Rosmarinus officinalis* 'collingwood ingram'), Autumn sage (*Salvia gregii*), Mexican Bush Sage (*Salvia leucantha*), and Blue Chalk Sticks (*Senecio mandraliscae*) would not pose such a risk as they are not known to be invasive. The Commission has previously allowed use of non-native, non-invasive landscaping within the developed commercial areas and the residential lots. The Commission finds that expanding this non-native, non-invasive landscaping allowance for these commercial and residential areas to the rights of way for Avenida Vista Hermosa and Avenida Pico would not pose a risk to sensitive habitat because no invasive plants would be allowed. Therefore, through amendment condition II.G the Commission modifies Special Condition 11 of the previously approved permit.

## **5. Conclusion**

The applicant has sited and designed the proposed project to avoid direct impacts to ESHA. As conditioned, the Commission finds the development consistent with Sections 30240 of the Coastal Act.



## C. WETLANDS

Section 30231 of the Coastal Act states that:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30240 of the Coastal Act states that:

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

*(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

There are 5.21 acres of wetlands in the project area (on-site and off-site) consisting of alkali marsh, alkali meadow, seasonal wetland, and mulefat scrub. These wetland areas are not subject to tidal inundation. In its findings adopted June 11, 2003, the Commission previously found that the existing wetlands on the project site in the coastal zone constitute ESHA. These findings are incorporated herein by reference.

### 1. Wetland Buffers

The proposed amendment would introduce additional grading and other work activity in close proximity to wetlands in order to construct the proposed Avenida Vista Hermosa bridge. This development has the potential to adversely impact wetlands habitat during and after construction. For instance, during construction, direct encroachments into the habitat could disturb (remove, trample, etc.) the habitat. Grading surrounding lands could lead to sedimentation of the wetlands. In addition, noise could adversely impact wildlife which utilize the wetland habitat. Post construction, invasion of habitat by non-native, invasive plants that could colonize the disturbed areas adjacent to the wetlands could reduce the functionality of the wetlands.

Buffer areas are undeveloped lands surrounding wetlands. Buffer areas serve to protect wetlands from the direct effects of nearby disturbance. In addition, buffer areas can provide necessary habitat for organisms that spend only a portion of their life in the wetland such as amphibians, reptiles, birds, and mammals. Buffer areas provide obstructions which help minimize the entry of domestic animals and humans to wetlands. Buffers also provide visual screening between wetland species that are sensitive to human impacts, such as lighting. Buffers can also reduce noise disturbances to wetland species from human development. The Commission has commonly found that that a minimum 100 foot buffer needs to be established around wetlands in order to protect those wetlands from disturbance as required by Section 30231 and 30240 of the Coastal Act.

The applicant identifies a wetland buffer which varies but is generally no smaller than 100 feet in width. The previously authorized project included an exception at the upper end of Marblehead Canyon, to place bridge pilings for the proposed Avenida Vista Hermosa bridge within 25 feet of wetlands. The Commission found that the proposed location for these bridge pilings is the least disruptive to coastal resources and would not be considered a significant encroachment. The re-designed, slightly larger diameter pilings would adhere to the 25-foot setback.

Proposed additional work necessary to construct the bridge includes placing approximately 90 temporary H-beam pilings within the previously established 25-foot setback (no wetland fill though). These temporary pilings would be installed and removed with a vibratory hammer (no drilling). In addition, temporary falsework for construction purposes would span the wetlands (no fill). Some additional grading is also proposed, however, this grading is located outside of the previously established 25-foot setback. Furthermore, additional down drains and energy dissipators are proposed on the graded slope, but these would adhere to the 25-foot setback.

The applicant supplied a biological effects analysis of the proposed changes in a memorandum dated November 29, 2004 and prepared by Glenn Lukos Associates. This analysis indicates that the majority of the vegetation adjacent to the wetlands consists of non-native annual grasses, non-native Aleppo pine, black mustard, and sweet fennel with no special status plant species present. A limited 250-300 square feet of CSS vegetation is present. Measures to minimize or avoid impacts to any sensitive habitat are identified in the memorandum prepared by Glenn Lukos, as well as within a letter by RBF consulting dated November 29, 2004. Proposed measures include avoiding the CSS vegetation patch, using fencing to prevent encroachments into wetlands, and limiting the duration that temporary falsework remains in place to approximately 4 months. The Commission's biologist has reviewed the proposed work and measures and found that the work would not significantly degrade the wetland ESHA and would maintain the biological productivity of the wetland areas.

Section 30231 of the Coastal Act requires that the biological productivity and quality of coastal waters be maintained through, among other means, the maintenance of a protective natural buffer area. Section 30240(b) of the Coastal Act requires that development in areas adjacent to environmentally sensitive habitat areas, such as the on-site wetlands, must be sited and designed to prevent impacts that would significantly degrade those areas. Certain proposed encroachments are consistent with these requirements as they do not result in adverse impacts to wetlands that would significantly degrade those areas or to a reduction in the biological productivity or quality of the waters. In order to allow the proposed development, certain changes to the previously imposed special conditions are necessary. For instance, Special Conditions 9.A.3 and 9.A.5. prohibit work within designated wetland buffers. In addition, Special Conditions 10.A.1. and 17 establish minimum buffers. Allowances need to be created in these conditions for the work to commence as the applicant has proposed. The special conditions have been modified accordingly pursuant to permit amendment conditions II.E, II.F, and II.I. With the proposed and conditioned assurances that the development will be constructed in the manner proposed, and the additional assurances regarding future protection of the wetlands in perpetuity already in place as a result of the prior authorization, the proposed amended project can be found consistent with Section 30231 and 30240(b) of the Coastal Act.

It should also be noted that Section 30233 of the Coastal Act regulates dredging and/or fill of wetlands within the coastal zone. The proposed bridge construction would not result in any dredging and/or fill of wetlands at the project site. Thus, there is no inconsistency with Section 30233 of the Coastal Act.

## **2. Wetlands Hydrology & Groundwater Quality**

Alkali wetlands at the site are supported primarily by ground water. In the prior authorization, the Commission addressed issues related to impacts to these wetlands generated by changes to wetland hydrology. The continued viability of the wetlands is linked in part to the amount and quality of ground water that is delivered to the wetlands. Reductions in ground water supplied to the wetlands could have significant impacts to hydrophytic vegetation. Significant increases in the ground water supplied to the wetlands could have impacts as well. This is because these are alkali wetlands, and support a particular ecosystem adapted to high salinity water. Significant increases in the input of low-salinity ground water has the capacity to alter these ecosystems.

Prior studies, and previously proposed mitigation measures addressed potential impacts to wetlands hydrology. The Commission previously imposed Special Conditions 8.B, 18 and 19 to assure that ground water flows to the wetlands were maintained at the site.

The proposed amendment includes an 800 linear foot inland extension of a previously approved 1,100 linear foot long subdrain along the westerly property boundary. The extended subdrain has the potential to change groundwater hydrology, and thus, affect wetlands that are located on-site and that may be located off-site. In order to address such potential impacts, the applicant submitted an analysis by Glenn Lukos Associates dated December 15, 2004. The analysis disclosed that the extended subdrain had the potential to impact Wetland/Tributary A located near the westerly property boundary, Wetland/Tributary C, located in the westerly canyon, and an off-site wetland located between the Shorecliffs Middle School and Colony Cove to the west.

With respect to Wetland/Tributary A and Wetland/Tributary C, the applicant's analysis concludes that the volume of water reaching these wetlands will not be reduced by the subdrain. Rather, any water intercepted by the subdrain system would be collected and discharged through the previously authorized subdrain system that is designed to direct water to the wetlands. The study states the amount of additional water is expected to be minimal and wouldn't adversely affect the wetland. With respect to the off-site wetlands, the study indicates these wetlands are supported by urban runoff (i.e. surface flows) that will not be affected by the proposed project.

Thus, as was concluded in the prior authorization, the total amount of ground water available to the wetlands will not decrease as a result of development, and may, in fact, increase substantially. Any large increase in ground water recharge may reduce the salinity of the alkali wetlands. However, the applicant has submitted data that indicate that the alkali-adapted ecosystems in Orange County are able to tolerate a wide range of salinities. Accordingly, with the implementation of the recommendations relative to grading the site, no adverse impact to the wetlands is anticipated. Thus, the proposed project, as amended, is not anticipated to decrease the biological productivity or the quality of these wetland areas nor is it anticipated to have any effect on the ability of these wetlands to contribute to maintaining optimum populations of marine organisms. Furthermore, the fluctuation in ground water supply is not anticipated to significantly disrupt the habitat values of the wetlands. With the implementation of the proposed mitigation measures, at minimum, the Commission finds that adverse impacts to wetland hydrology and groundwater salinity would not be significant.

#### **D. SCENIC RESOURCES**

Section 30251 of the Coastal Act states in relevant part:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas...*

There is a prominent 'peninsula' that protrudes into the canyon area that is located between the east branch and the main stem of Marblehead canyon. The applicant previously recognized the visual and biological importance of this peninsula area and proposed to make that area a part of the proposed open space area. A view park and trails providing viewing, access and recreation opportunities was proposed at this location as well. Previously imposed Special Condition 2 required dedication of this viewpoint area to the City. As discussed previously, the City has indicated it no longer wishes to hold fee title ownership of that land. However, regardless of ownership, the applicant is still proposing to provide full public access to the viewpoint and trails at this location. This proposal is memorialized in previously imposed Special Conditions 1 and 5 (as modified by this amendment) and applies equally to this amendment, (see permit amendment condition II.A).

The previously approved project also included a significant public view plaza within the commercial center, near the corner of Avenida Pico and proposed Avenida Vista Hermosa. The amended project design reconfigures but maintains a public view plaza at this location. This plaza is shown on Exhibit 6. As proposed, the Commission finds the amended project consistent with Section 30251 of the Coastal Act relative to public views.

#### **E. VISUAL RESOURCES AND COMMUNITY CHARACTER**

Section 30251 of the Coastal Act states:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

Section 30253 of the Coastal Act states, in part:

*New development shall:*

*...(5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

## 1. Heights of Structures

The previously authorized project allows the construction of single-family homes with roof-lines that are 24 to 29 feet above proposed grade. The proposed amendment would change the height of the structures in the 'courtyard' development area from 24 feet to 30 feet (plus chimney). As proposed, the structures are scaled to be consistent with the character of the surrounding developed community. In addition, the structures are sited and sized such that they do not have an overwhelming presence adjacent to open spaces and trails. In order to assure the development is constructed as proposed, the Commission previously imposed Special Conditions 18, 23 and 24. The Commission also previously imposed a future development restriction, Special Condition 25, to assure that additions or other development that may otherwise be exempt, require a coastal development permit/amendment in order that such development may be reviewed for consistency with the requirements of this permit and other applicable requirements. The Commission imposes permit amendment conditions II.A and II.J that carry these previously imposed conditions forward to apply equally to the amendment. Therefore, as conditioned, the Commission finds the proposed project, as amended, is consistent with Sections 30251 and 30253 of the Coastal Act.

## F. ACCESS AND RECREATION

Section 30210 of the Coastal Act states:

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

Section 30212.5 of the Coastal Act states:

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

Section 30213 of the Coastal Act states, in relevant part:

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

Section 30221 of the Coastal Act states:

*Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

Section 30222 of the Coastal Act states:

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

Section 30223 of the Coastal Act states:

*Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Section 30252 of the Coastal Act states:

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

#### **1. Land Use – Public Amenities**

The previously proposed ocean view park was to be granted in fee to the City. Special Condition 2 was imposed to ensure implementation of this aspect of the applicant's proposal. At the time, the City of San Clemente indicated it would accept all of the land identified in Special Condition 2. As discussed in Section III.B.4.a)(2) of these findings, the City no longer desires to accept all of the previously identified lands. Previously imposed Special Condition 2 allows for another public agency or non-profit entity acceptable to the Executive Director to accept the proposed public lands. The Commission would prefer that the previously identified lands be held by a public, rather than private entity to reduce the possibility of future conflicts over use between the public and any private owners. Thus, the Commission urges the applicant to continue to work with the City, and/or other public entity, to transfer those lands into the public domain. However, in the event such transfer does not occur, the restrictions upon use of the land and the requirement for public access thereto remain in effect and any landowner must comply with those requirements. Permit amendment conditions II.B and II.D modify Special Conditions 2 and 5 accordingly. In addition, permit amendment conditions II.A and II.J assure the previously required conditions apply equally to the project, as amended.

The Commission also previously imposed Special Condition 3 that required that public access easements be offered over the proposed trails that pass through lands that have not been identified by the applicant for public ownership. The City of San Clemente previously indicated that it would accept easements over the entire trail network. However, the City now wishes to forego acceptance over two trails, identified in Exhibit #2, Item "B". These trails would still be required to be open for use of the general public, without restriction, in accordance with previously imposed Special Condition 1. Permit amendment condition II.C modifies Special Condition 3 accordingly. In addition, permit amendment conditions II.A and II.J assure the previously imposed conditions apply equally to the project, as amended.

At the time of the prior approval, the applicant had only developed preliminary plans relative to amenities for the park and trail network. Revised plans indicate the applicant proposes a third restroom to be located at the park adjacent to the inland terminus of the westerly canyon. All proposed facilities must be designed to be consistent with all the measures identified by the permit to protect biological resources. In addition, those facilities must be designed to minimize

or avoid the obstruction of public views. Therefore, the Commission imposes permit amendment condition II.H, II.A, and II.J which assure all relevant conditions previously imposed apply equally to the project, as amended, and allow for the construction of the additional restroom.

## **2. Trail Connectivity**

The proposed project, as amended, includes an extensive 4.1-mile network of public trails. The proposed trail system will provide coastal visitors with the opportunity to recreate at the site and enjoy views and natural open space. The modified trail network includes an additional stairway connection between the bluff top and mid-bluff trails. The Commission finds this additional connection would improve public access and circulation through the site.

## **3. Parking**

The proposed project includes residential development that would increase the resident population in the area with attendant traffic and parking demands. In addition, the proposed project includes a commercial component that would increase traffic in the project area and create parking demands. The proposed project also includes a public park that would have even higher parking demands if developed with amenities that would draw people to use them.

The public access and recreation policies of the Coastal Act, including Section 30252, require that new development provide adequate circulation and parking and facilitate transit service to assure that public access to the coast is not adversely impacted by the new development. For instance, increases in traffic associated with the development can adversely impact the public's ability to use traffic-impacted roads to access the coast. In addition, if adequate parking or public transportation to serve the development is not available, on-street public parking and/or public parking lots may be used to support the development. Such use of public parking facilities by the new development would displace members of the public trying to access the coast from those public parking facilities, resulting in adverse impacts to coastal access.

### **a) Regional Commercial Center Parking**

The proposed project would reduce the quantity of commercial space within the coastal zone from 141,506 square feet to 77,576 square feet. The quantity of parking to serve the commercial development would increase from a total of 2,724 spaces to 3,253 spaces (both inside and outside the coastal zone). Parking within the coastal zone would increase from 1,732 spaces to 2,276 spaces. The applicant has stated that the additional parking was desirable based on their observations of similarly situated commercial developments in southern California.

While a 650 space deficiency was identified using the Commission's Shopping Center guideline of 5 parking spaces per 1,000 square feet applied to the entire commercial center (both inside and outside the coastal zone), the previously approved development was found to have adequate parking based upon City parking standards and a parking analysis. However, under the Shopping Center guideline, the approximately 640,000 square foot shopping center now proposed would require approximately 3,200 parking spaces. The amended project provides 3,253 spaces. Thus, the reduction in total square footage of the commercial development and the increase to the total quantity of parking would bring the commercial development into conformance, and exceed, the Commission's Shopping Center guideline. Considering just the component of the development in the coastal zone, the revised project exceeds required parking by an order of magnitude (387 required versus 2,276 provided).

As noted in the prior authorization, the proposed commercial center may be constructed in phases, such that all of the proposed parking would not be available when the sub-phase opens. In order to assure that each phase of the development is adequately parked, the Commission previously imposed Special Condition 24 that require the applicant to demonstrate to the Executive Director that adequate parking is provided in advance of opening each phase of the commercial center. Finally, since there is an excess of parking available, the Commission required the applicant to allow the general public to park in the parking lot, as proposed, to access the public amenities provided in the development. Permit amendment conditions II.A and II.J assure the previously imposed conditions apply equally to the project, as amended.

#### b) Parking for Parks and Trails

Section 30212.5 of the Coastal Act requires that public facilities including parking areas be distributed throughout an area to mitigate overcrowding and overuse of any single area by the public. Section 30213 encourages lower cost visitor and recreational facilities. Section 30252 of the Coastal Act requires the provision of adequate parking or public transportation to serve the development. The proposed project would have public park area on-site. These public areas would serve the occupants of the proposed development and the general public. Use of the parks will generate a parking demand. The proposal includes parking lots within the proposed parks as well as on-street public parking spaces.

The applicant is proposing to incorporate a universally accessible playground into the sports park. In part to offset parking requirements for this new playground, the applicant is now proposing to expand the parking lot to add 98 additional spaces (total = 158) for public parking. These spaces, in conjunction with the spaces required pursuant to the prior authorization, will assure adequate parking for public access to the parks, trails and open spaces. Permit amendment conditions II.A and II.J assure the previously imposed conditions apply equally to the project, as amended.

#### **4. Conclusion - Access**

With conditions, the Commission finds the proposed development consistent with the public access and recreation policies of the Coastal Act.

#### **G. GEOLOGIC STABILITY**

Section 30253 of the Coastal Act states, in relevant part:

*New development shall:*

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

#### **1. Off-site Effects of Added Groundwater on Colony Cove**

As noted in the prior authorization, an increase in the amount of infiltrated ground water is expected to result from the proposed development, largely resulting from irrigation. Ground water will tend to flow downward through the relatively permeable terrace deposits and the



upper, weathered, part of the Capistrano Formation bedrock, then flow down slope along the terrace deposit/bedrock contact. The terrace deposit/bedrock contact slopes to the southwest, and would in places be graded toward the on-site canyons, so most of the groundwater would either recharge into the canyons, out of the bluff face above El Camino Real, or (to a much lesser extent) along the slopes above Avenida Pico. Due to the potentially large increase in the volume of ground water, however, some may move upslope and cross the northern property line near the northwestern corner of the property, potentially increasing ground water levels beneath the Colony Cove development to the north. An increase in ground water levels could affect the stability of that site, potentially reducing slope stability.

Therefore, the Commission previously imposed Special Conditions 18 and 19 that required the applicant to comply with the applicant's geotechnical consultant's recommendation to install a buried cutoff wall and subdrain that were contained in a letter dated January 6, 2003. Amendment condition II.A states these previously imposed special conditions remain in effect and apply equally to the amended project. The applicant is now proposing to extend the subdrain an additional 800 linear feet to intercept additional groundwater flows. As before, this drain would collect water that could potentially cross the property line and impact Colony Cove, eliminating any potential groundwater associated impacts from this development upon Colony Cove. As conditioned, the Commission finds the project, as amended, would not contribute to the instability of surrounding areas, in compliance with Section 30253 of the Coastal Act.

## **H. WATER QUALITY**

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

### **1. Construction Phase**

In order to avoid adverse water quality impacts associated with construction, the Commission previously imposed Special Condition 8, 9 and 16 that require the applicant to avoid impacts to wetlands and sensitive upland habitat; install temporary barriers between construction areas and sensitive habitats; to avoid grading and construction within dedicated open space areas, to re-vegetate disturbed areas; to store and dispose of construction materials, equipment, debris and waste in a manner which protects water quality; to prohibit construction activity during certain periods to minimize impacts upon sensitive wildlife; to use best management practices (BMPs) and good housekeeping practices (GHPs) to contain construction materials, chemicals, debris and sediment on the project site; and require that the applicant prepare erosion, sediment and runoff control plans and grading plans. These requirements are equally necessary for the proposed project, as amended. Therefore, the Commission imposes amendment conditions II.A and II.J.

## **2. Post Construction Phase**

The applicant's previously proposed water quality plan (WQP) was designed with the "treatment train" approach in mind, and includes source and treatment control Best Management Practices (BMPs). The previously proposed WQP uses four primary methods of nonpoint source pollution (NPS) prevention: 1) source control Best Management Practices (BMPs); 2) structural treatment BMPs; 3) low flow diversions, and 4) 'end of pipe' controls. The Commission required certain modifications to the previously proposed WQP, that were identified in Special Condition 16. Since authorization, the applicant has further refined their WQP to include an additional bioswale at the sports park, as well as an additional bioswale at Pico Park. Among other specifications, Special Condition 16 required that post-construction structural BMPs (or suites of BMPs) be designed to treat, infiltrate or filter the amount of storm water runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs. These requirements are equally necessary for the proposed project, as amended. Therefore, the Commission imposes amendment conditions II.A and II.J.

## **3. Summary**

Without mitigation, the proposed project, as amended, would have significant adverse impacts upon coastal waters. As modified by conditions, the Commission finds the development consistent with Section 30231 of the Coastal Act as it pertains to the protection of water quality through the use of best management practices.

### **I. LOCAL COASTAL PROGRAM**

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the IP portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The City submitted a second IP in June 1999. That submittal was subsequently withdrawn in October 2000. All documents certified by the Commission excluded the project site, therefore, there is no certified LUP or IP for the project site.

The proposed development, as amended and conditioned, is consistent with the Chapter Three policies of the Coastal Act. Therefore, the Commission finds that the proposed development, as amended and conditioned, would not prejudice the ability of the City to prepare a certified local coastal program consistent with the Chapter Three policies of the Coastal Act.

### **J. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project, as amended, has been conditioned in order to be found consistent with the biological, public access, hazard, and water quality policies of Chapter Three of the Coastal Act. The required mitigation measures will minimize all significant adverse effects which the activity will have on the environment.

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as amended and conditioned, can be found consistent with the requirements of CEQA.

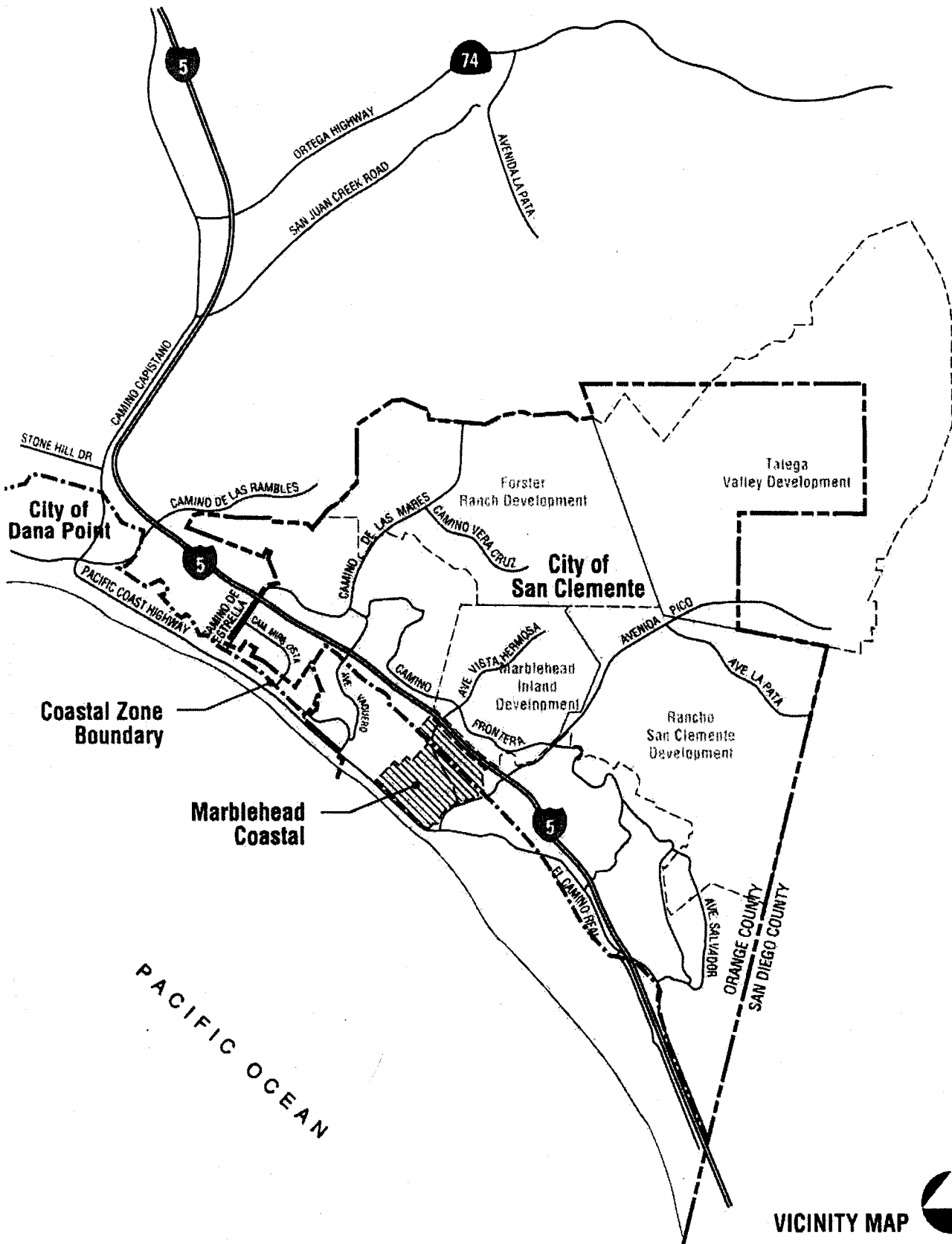
#### **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

Glenn Lukos Associates. 2004. Biological assessment of the proposed Avenida Vista Hermosa Bridge Construction and Design. Memorandum dated November 29, 2004 by Tony Bomkamp.

Glenn Lukos Associates. 2004. Proposed trail connection's potential impacts to biological resources. Memorandum dated December 1, 2004 from Tony Bomkamp.

Glenn Lukos Associates. 2004. Potential changes in wetland hydrology for Wetland/Tributary A, Wetland/Tributary C, and potential off-site wetland associated with extension of authorized subdrain at Marblehead Coastal site, San Clemente. Memorandum dated December 15, 2004 by Tony Bomkamp.

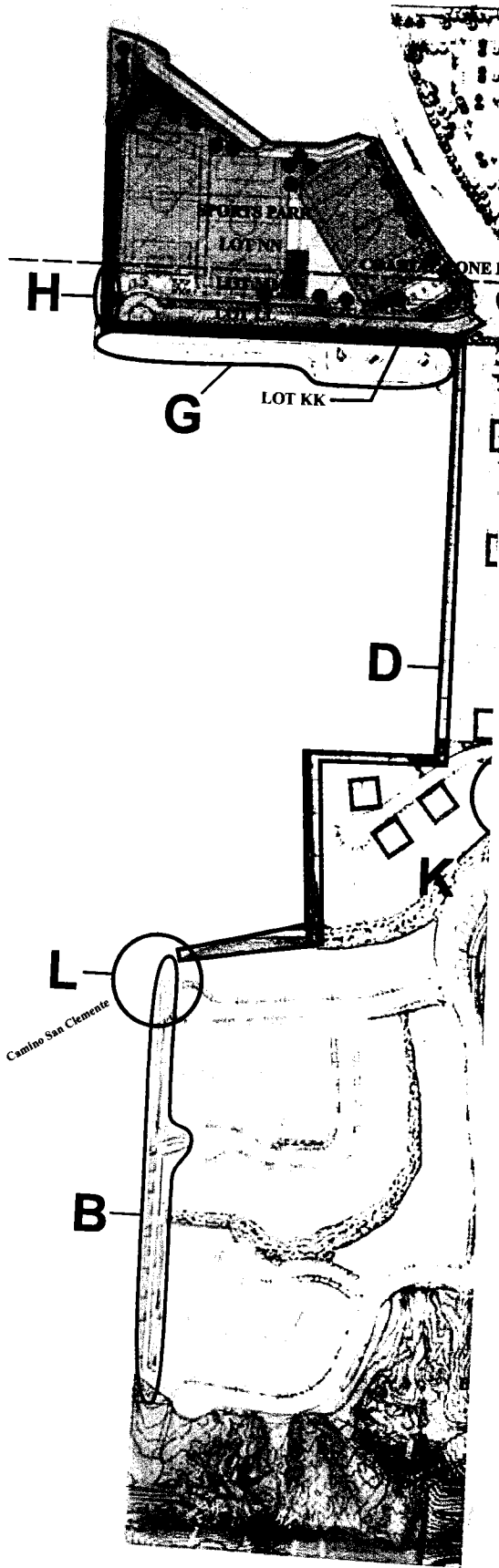
RBF 2004. Temporary falsework construction for the Avenida Vista Hermosa Bridge. Letter dated November 29, 2004 from Michael J. Burke.



VICINITY MAP 




<b>EXHIBIT# 1</b>
Page 1 of 1
Application Number: <b>5-03-013-A1</b>
 California Coastal Commission

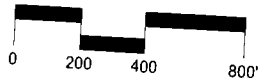
**COMPONENTS OF AMENDMENT REQUEST**  
**COASTAL DEVELOPMENT PERMIT AMENDMENT**  
**MARBLEHEAD COASTAL**



**LEGEND**

- A. Additional trail segments requested.
- B. Trail segments City will not own (HOA will maintain for public use).
- C. Additional public restroom requested.
- D. Proposed subdrain extension.
- E. Proposed revision to bridge foundation design.
- F. Expanded streetscape plant palette.
- G. Sports Park parking increased.
- H. Via Socorro improvements (curbs, gutters, sidewalks, etc.).
- I. Reconfiguration of commercial buildings and increased parking.
- J. Los Molinos improvements (curbs, gutters, sidewalks, etc.).
- K. Proposed new view corridor.
- L. Proposed storm drain / water quality modications (capture and inclusion of off-site flows from west of project site at Camino San Clemente and add to Basin #3; divert storm flows to flood control channel instead of Basin #1 and maintain extended detention and wetland bio-filtration for low flows and first flush).

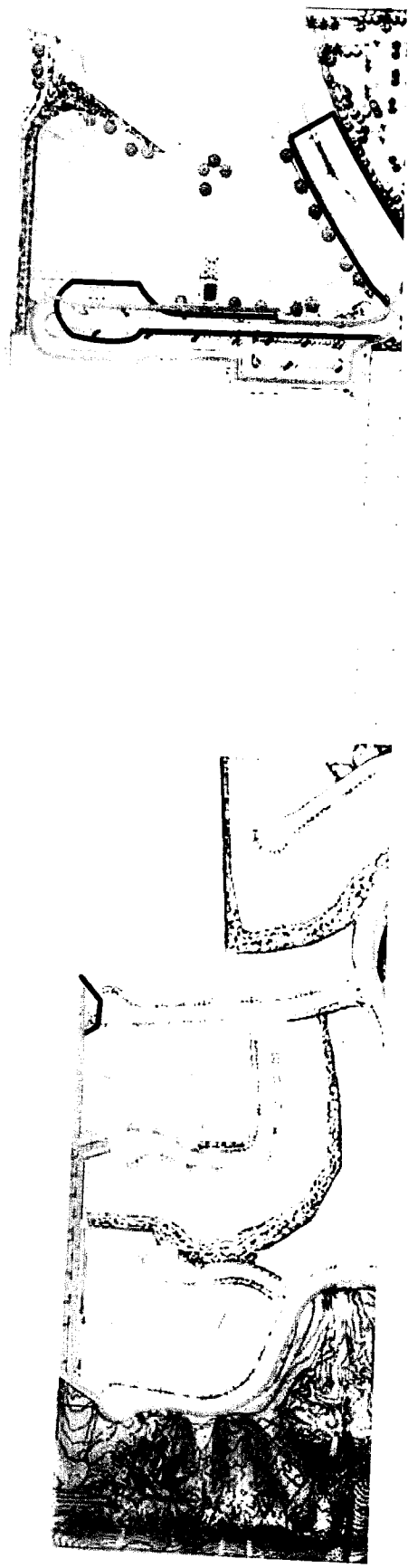
-  Open Space Lots City of San Clemente Will Not Own (All will be HOA owned; HOA will maintain Lots D, I, J, M, O and P and Center for Natural Lands Management (CNLM) will maintain Lots RR, SS and TT).
-  Open Space Lots City of San Clemente Will Own. (Lots E, F, N, R, KK, LL, MM, NN and ZZ)
-  Courtyard units proposed to have 30-foot height limit.



Last Revised February 2, 2005



# MARBLEHEAD COASTAL TRAIL COMPARISON PLAN (REVISED TRAIL PROPOSAL CDP AMENDMENT)

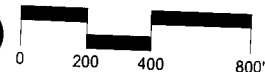


CURRENT TRAIL PROPOSAL

PREVIOUS TRAIL ALIGNMENT  
(per CDP 04/09/03)

Note:

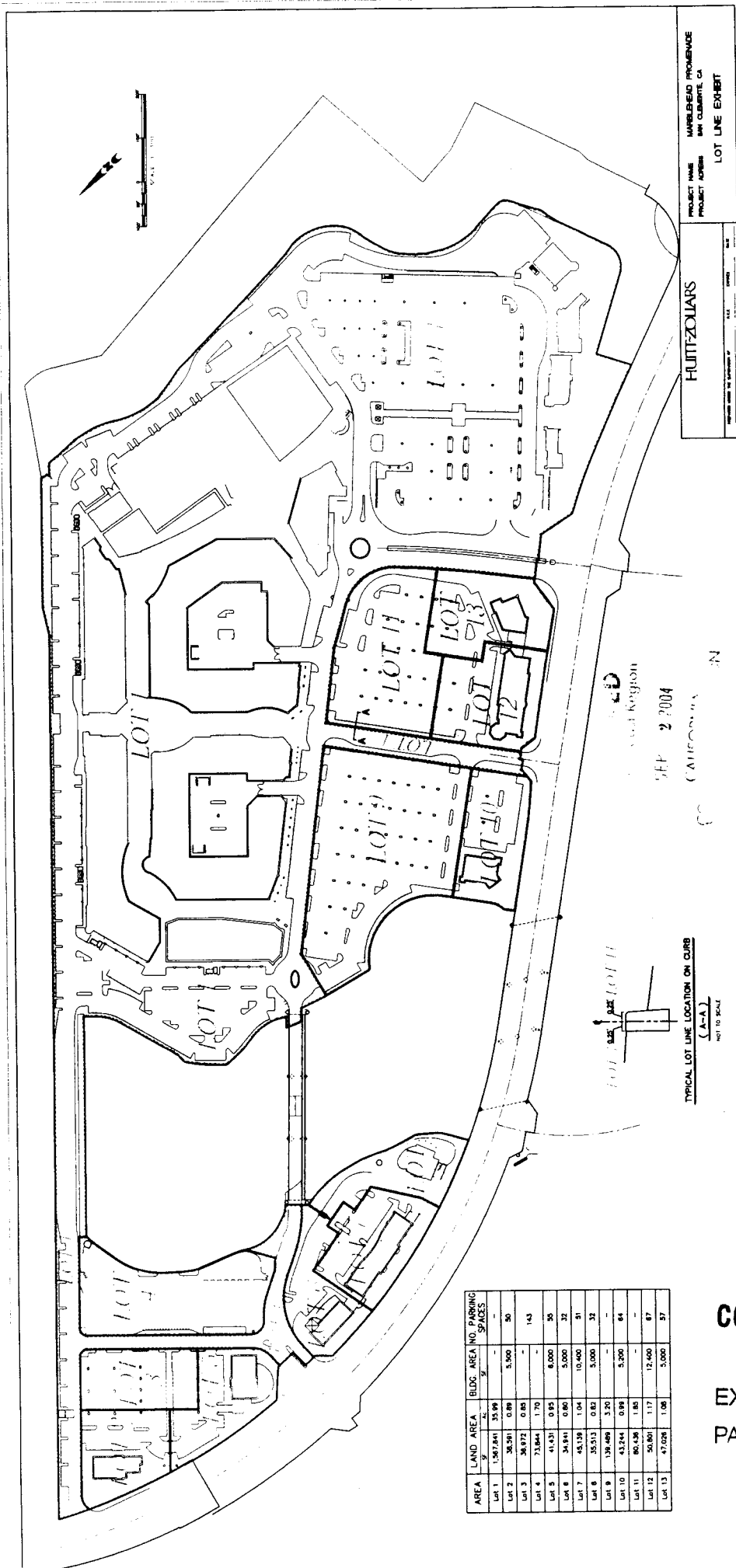
- 1) Trail location in response to Coastal Condition of Approval.



Last Revised February 2, 2005





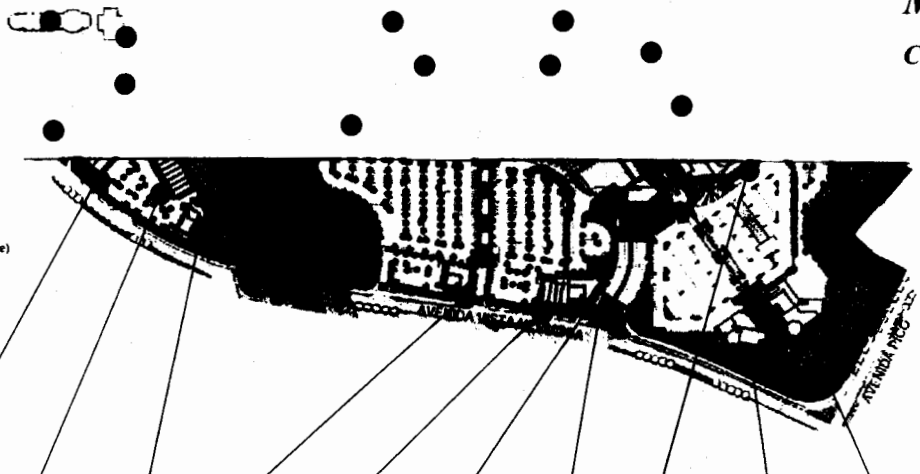


AREA	LAND AREA SQ. FT.	BLDG. AREA SQ. FT.	NO. OF PARKING SPACES
Lot 1	1,567,841	33,899	50
Lot 2	38,391	899	5,000
Lot 3	38,972	895	143
Lot 4	73,844	1,700	5,000
Lot 5	41,431	995	5,000
Lot 6	34,941	890	5,000
Lot 7	45,139	1,040	10,400
Lot 8	35,513	895	5,000
Lot 9	139,499	3,200	5,000
Lot 10	43,244	999	5,000
Lot 11	80,436	1,890	5,000
Lot 12	50,801	1,170	12,400
Lot 13	47,026	1,060	5,000

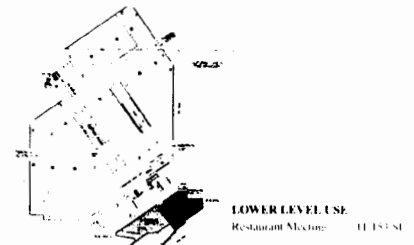
COASTAL COMMISSION  
 5-03-013-A1  
 EXHIBIT # 4  
 PAGE 1 OF 1

**Commercial Site Plan  
CCC Approved April 8, 2003**

- **12-06-01 HOTEL & CONFERENCE**  
Hotel = 65,455 SF (Building 12) \*23,396 SF smaller than 2004 plan  
Conference = 7,500 SF (Building 14) \*5,140 SF smaller than 2004 plan  
Total = 72,955 SF
- **12-06-01 PARKING COUNT**  
Total Commercial Site Parking = 2,724  
Total Coastal Zone Parking = 1,732 (Stalls on grade 1,253 & 479 for Parking Structure)  
Total Out of Coastal Zone Parking = 992



**MARBLEHEAD COASTAL** 4A  
**Commercial Site Plan Coastal Zone Comparison**

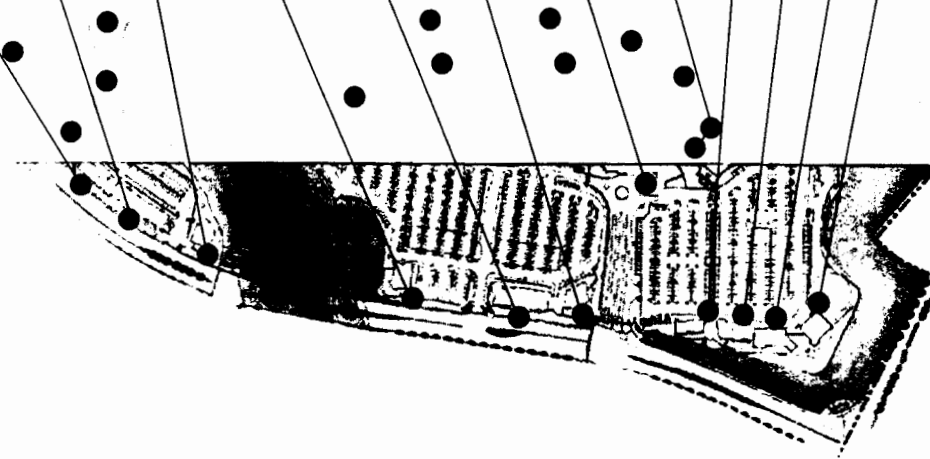


2003	Restaurant	Retail	Restaurant	Restaurant	Restaurant	Restaurant	3A	3B	147,835 sf	Total Overall Commercial 675,061 sf
Total S.F.	5,600 sf	13,300 sf	3,280 sf	6,000 sf	6,750 sf	6,450 sf	12,998 sf	17,353 sf	147,835 sf	
In CZ	1,182 sf	8,370 sf	3,280 sf	6,000 sf	6,750 sf	6,450 sf	12,998 sf	17,353 sf	141,506 sf	
Δ S.F.	+2,941	+2,030	+1,720	-800	+5,650	-1,450	-35,645	-7,210	-63,930	
In CZ	4,123 sf	10,400 sf	5,000 sf	5,200 sf	12,400 sf	5,000 sf	7,797 sf (1 Level)	2,966 sf	77,576 sf	
Total S.F.	5,600 sf	13,300 sf	3,280 sf	6,000 sf	6,750 sf	6,450 sf	12,998 sf	17,353 sf	147,835 sf	Total Overall Commercial 640,484 sf
2004	Restaurant	Retail	Restaurant	Restaurant	Restaurant	Restaurant	3A	3B		
Total S.F.	5,600 sf	13,300 sf	3,280 sf	6,000 sf	6,750 sf	6,450 sf	12,998 sf	17,353 sf	147,835 sf	
In CZ	1,182 sf	8,370 sf	3,280 sf	6,000 sf	6,750 sf	6,450 sf	12,998 sf	17,353 sf	141,506 sf	
Δ S.F.	+2,941	+2,030	+1,720	-800	+5,650	-1,450	-35,645	-7,210	-63,930	
In CZ	4,123 sf	10,400 sf	5,000 sf	5,200 sf	12,400 sf	5,000 sf	7,797 sf (1 Level)	2,966 sf	77,576 sf	
Total S.F.	5,600 sf	13,300 sf	3,280 sf	6,000 sf	6,750 sf	6,450 sf	12,998 sf	17,353 sf	147,835 sf	
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In CZ	4,123 sf	10,400 sf	5,000 sf	5,200 sf	12,400 sf	5,000 sf	7,797 sf (1 Level)	2,966 sf	77,576 sf	
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Total S.F.	5,600 sf	13,300 sf	3,280 sf	6,000 sf	6,750 sf	6,450 sf	12,998 sf	17,353 sf	147,835 sf	
In CZ	1,182 sf	8,370 sf	3,280 sf	6,000 sf	6,750 sf	6,450 sf	12,998 sf	17,353 sf	141,506 sf	
Δ S.F.	+2,941	+2,030	+1,720	-800	+5,650	-1,450	-35,645	-7,210	-63,930	
In CZ	4,123 sf	10,400 sf	5,000 sf	5,200 sf	12,400 sf	5,000 sf	7,797 sf (1 Level)	2,966 sf	77,576 sf	
Total S.F.	5,600 sf	13,300 sf	3,280 sf	6,000 sf	6,750 sf	6,450 sf	12,998 sf	17,353 sf	147,835 sf	

Total Overall Commercial 675,061 sf  
 Retail = -35,175 S.F.  
 Restaurant = -3,250 S.F.  
 Meeting = -11,153 S.F.  
 Building Services = -14,352 S.F.

**Commercial Site Plan  
City Approved July 20, 2004**

- **7-20-04 HOTEL & CONFERENCE**  
Hotel = 88,851 SF (Building 15) \*23,396 SF larger than 2001 plan  
Conference = 12,640 SF (Building 14) \*5,140 SF larger than 2001 plan  
Total = 101,491 SF
- **7-20-04 PARKING COUNT**  
Total Commercial Site Parking = 3,253 (529 more parking stalls than 2001 plan)  
Total Coastal Zone Parking = 2,276 (Stalls on grade 1,069 & Level 2 Structure 1,207)  
Total Out of Coastal Zone Parking = 977



PAGE 1 OF 2  
 EXHIBIT # 5  
 COASTAL COMMISSION  
 S-03-013-A1

Commercial 2003 (In Coastal Zone)			Commercial 2003 (Out of CZ)			Commercial 2003 (Total)			Commercial 2003 (In Coastal Zone)			Commercial 2003 (Out of CZ)			Overall In-Out of CZ		
Building #	Square Footage	Square Footage	Total	Building #	Square Footage	Square Footage	Total	Δ									
1	43,442	9,812	53,254	1 (1)	7,797	11,873	19,670	-33,584									
2	10,176	27,569	37,745	2 (3 Partial)	6,400	-	6,400	-14,816									
3	28,506	-	28,506	3 (3 Partial)	7,290	-	7,290										
4	27,350	-	27,350	4 (4 Partial)	7,000	-	7,000	-16,350									
5	6,450	-	6,450	5 (4 Partial)	4,000	-	4,000										
6	6,750	-	6,750	6 (5)	5,000	-	5,000	-1,450									
7	6,000	-	6,000	7 (6)	12,400	-	12,400	5,650									
8	3,280	-	3,280	8 (7)	5,200	-	5,200	-800									
9	8,370	4,830	13,200	9 (8)	5,000	-	5,000	1,720									
10	1,182	3,818	5,000	10 (9)	10,400	-	10,400	-2,800									
11	-	4,400	4,400	11 (10)	4,123	877	5,000	0									
12	-	65,455	65,455	12 (11)	-	6,000	6,000										
13	-	5,000	5,000	13 (13)	-	5,500	5,500										
14	-	7,500	7,500	14 (14)	-	12,640	12,640										
15	-	66,300	66,300	15 (12)	-	88,851	88,851										
16	-	12,885	12,885	16 (16)	-	25,470	25,470										
17	-	86,361	86,361	17 (15)	-	54,050	54,050										
18	-	57,630	57,630	18 (17)	-	82,950	82,950										
19	-	95,755	95,755	19 (18)	-	44,633	44,633										
20	-	1,950	1,950	20 (19)	-	91,420	91,420										
21	-	84,290	84,290	21 (20)	-	21,290	21,290										
-	-	-	-	22 (21)	-	60,000	60,000										
-	-	-	-	23 (2 Partial)	-	15,920	15,920										
-	-	-	-	24 (2 Partial)	2,966	41,434	44,400	22,575									
<b>Total: 141,506</b>			<b>Total: 533,555</b>	<b>Total: 675,061</b>			<b>Total: 77,576</b>			<b>Total: 562,908</b>	<b>Total: 640,484</b>			<b>Δ = -39,855</b>			

Hotel = 65,455 sq. ft.  
 Conference = 7,500 sq. ft.  
 Total = 72,955 sq. ft.

Comm. Site Parking = 2,724  
 In CZ Parking = 1,732  
 Out of CZ Parking = 992

PAGE 2 OF 2  
 EXHIBIT # 5  
 5-03-013-A1  
 COASTAL COMMISSION

**Totals:**  
 Retail/Gen. Comm. = -35,175 sq. ft.  
 Restaurant = -3,250 sq. ft.  
 Meeting = -11,153 sq. ft.  
 Building Services = -14,352 sq. ft.

Total Δ = -63,930 sq. ft.

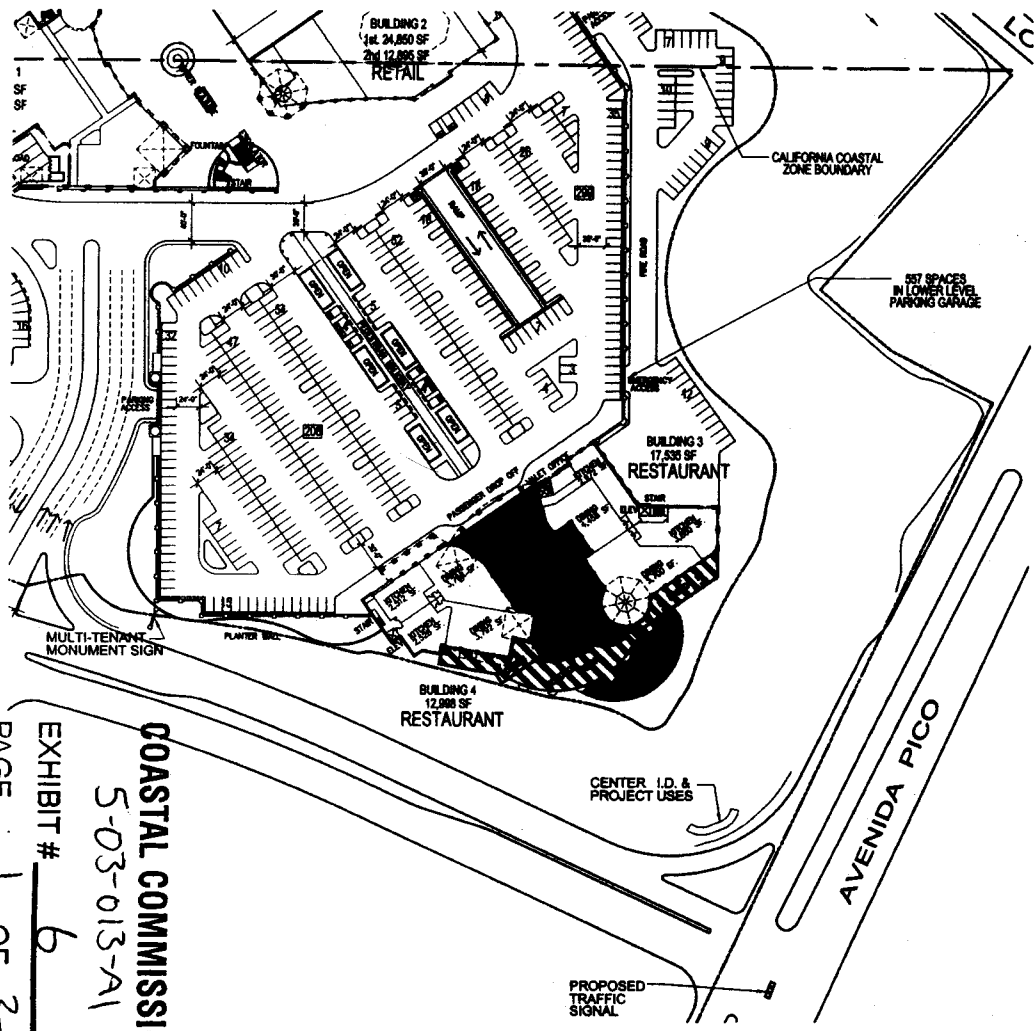
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Hotel = 88,851 sq. ft.  
 Conference = 12,640 sq. ft.  
 Total = 101,490 sq. ft.

Comm. Site Parking = 3,253  
 In CZ Parking = 2,276  
 Out of CZ Parking = 977  
 Date: 8.24.04

COASTAL COMMISSION

Previous Approval  
View Overlook - Commercial Center



REC...  
COASTAL...

<b>RESTAURANT PLAZA SUMMARY</b>	
<b>RESTAURANT BUILDINGS 3, 4, 5, &amp; 7</b>	
PUBLIC PLAZA AREA	17,818 SF
PATIO DINING AREA	7,019 SF
<b>TOTAL</b>	<b>24,837 SF</b>

- PUBLIC PLAZA AREA
- PATIO DINING AREA

**RESTAURANT PLAZA**  
**PER CDP 5-03-013 (4/9/03)**  
IN THE CALIFORNIA COASTAL ZONE FOR  
MARBLEHEAD COASTAL • COMMERCIAL SITE

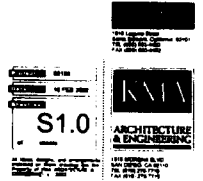
COASTAL COMMISSION  
5-03-013-A1  
EXHIBIT # 6  
PAGE 1 OF 2

**Marblehead Promenade at San Clemente**

San Clemente, California

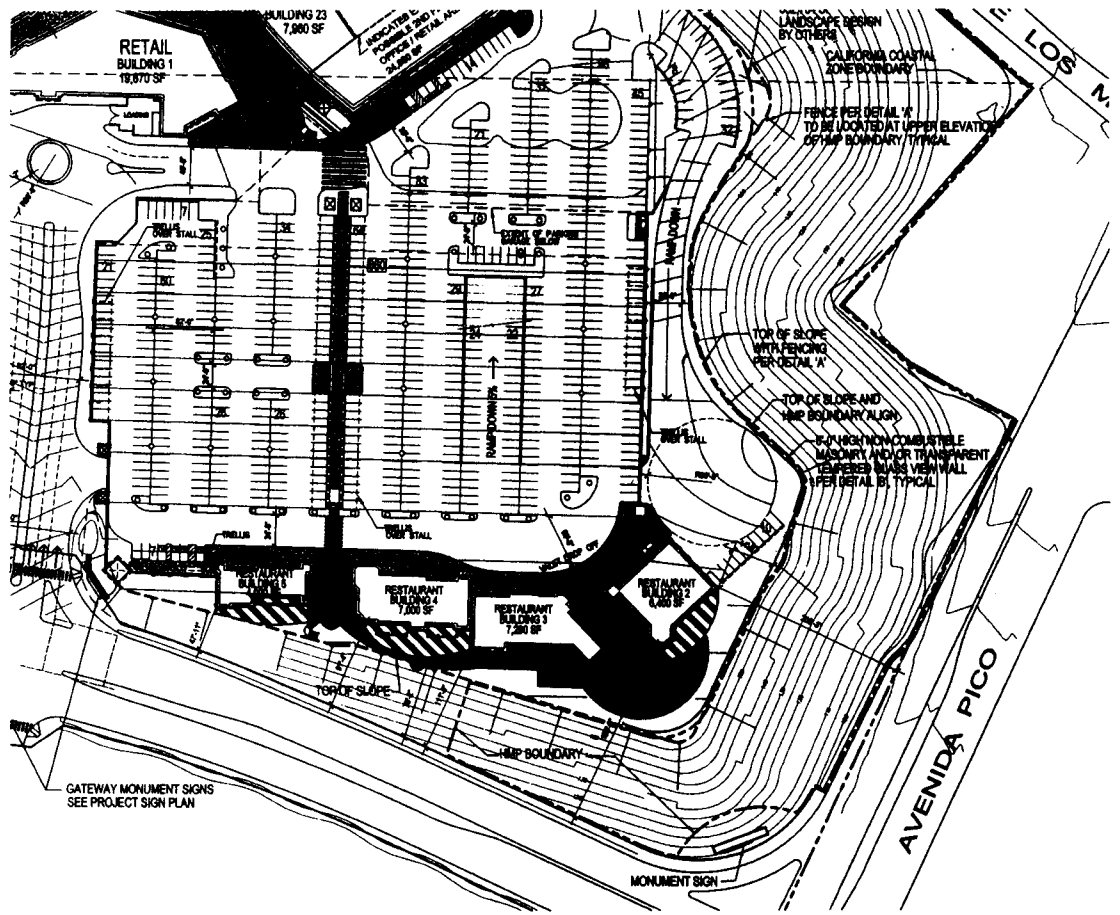
SDC Partners, LTD. & Craig Realty Group

**sdc** SDC Partners, LTD. & Craig Realty Group  
 4 Upper Newport Plaza, Suite 201 Newport Beach, California 92660 Tel: 949-851-1414 Fax: 949-833-9750  
 1500 Quail Street, Suite 100 Newport Beach, California 92660 Tel: 949-224-4100 Fax: 949-224-4101



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Proposed Commercial Center  
View Overlook



**VIEW POINT SUMMARY**  
**RESTAURANT BUILDINGS 2, 3, 4, 5, 6, 8 & 9**

PUBLIC PLAZA AREA	17,860 SF
PATIO DINING AREA	6,909 SF
<b>TOTAL</b>	<b>24,769 SF</b>

- PUBLIC PLAZA AREA
- PATIO DINING AREA

**RESTAURANT PLAZA**  
**PER AM SPP 99-16 (7/20/04)**  
IN THE CALIFORNIA COASTAL ZONE FOR  
MARBLEHEAD COASTAL • COMMERCIAL SITE

**PLAZA**  
**SAN CLEMENTE**  
San Clemente, California

EXHIBIT #  
S-03-013-A1  
PAGE 2 OF 2  
COASTAL COMMISSION



**SDC Partners, LTD. & Craig Realty Group**  
4 Upper Newport Plaza, Suite 101  
Newport Beach, California 92680  
Tel: 949-851-1414 Fax: 949-833-9750

1500 Quail Street, Suite 100  
Newport Beach, California 92680  
Tel: 949-224-4100 Fax: 949-224-4101



AMENDED SITE PLAN  
PERMIT 99-16



CONTENTS
AMENDED SITE PLAN
SHEET NO.
1

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South Coast Region

AUG 25 2004

CALIFORNIA  
COASTAL COMMISSION

**Marblehead Coastal**

RBF Job #: 10-030461  
August 24, 2004

**City Preferred Plant Species**

Trees

BOTANICAL NAME

Metrosideros excelsus  
Washingtonia robusta

COMMON NAME

New Zealand Christmas Tree  
Mexican Fan Palm

Shrubs

BOTANICAL NAME

Aloe striata  
Cistus purpureus  
Hesperaloe parviflora  
Perovskia atriplicifolia  
Rosmarinus officinalis 'Collingwood Ingram'  
Salvia gregii  
Salvia leucantha  
Senecio mandraliscae

COMMON NAME

Coral Aloe  
Orchid Rockrose  
Red Yucca  
Russian Sage  
Rosemary  
Autumn Sage  
Mexican Bush Sage  
Blue Chalk Sticks

**COASTAL COMMISSION**

EXHIBIT # 7

PAGE 1 OF 1



RECEIVED  
South Coast Region

November 29, 2004

Mr. Karl Schwing  
South Coast District Office  
200 OceanGate, 10<sup>th</sup> Floor  
Long Beach CA 90802-4416

ALBERTA  
COASTAL COMMISSION

RE: Temporary Falsework Construction for the Avenida Vista Hermosa Bridge

Dear Mr. Schwing:

As you requested at our last meeting of November 14, 2004, this letter provides additional information (supplementary to the exhibits submitted to you on November 9, 2004) concerning the temporary falsework associated with construction of the Avenida Vista Hermosa (AVH) bridge. As we discussed, implementation of the final design for the AVH bridge will require interim construction grading to support construction equipment and materials. Additionally, temporary piles located within the 25' wetland setback are proposed to support the temporary falsework required for bridge construction. A detailed discussion of the work within the 25' setback necessary to construct the proposed bridge is presented below.

**A. Access and Equipment**

No grading or heavy equipment access will be required or allowed within the 25' wetland setback area. Access to the Avenida Vista Hermosa bridge construction site will be across the disturbed portions of the property outside the 25' setback area. Access to the temporary work area will be facilitated through the construction of temporary access ramps to the pad areas located on each side of the Central Canyon outside the 25' setback area. The edge of the temporary pads ranges from 25' to 62' from the wetland. To minimize the disturbed area necessary for the ramps, they are to be built at the maximum grade. These ramps will provide controlled access for materials and equipment necessary for bridge and falsework construction. The main construction equipment consists of a "crawler crane" along with two rough terrain forklifts. The crane will be used for pile driving, falsework erection and general construction activities.

**B. Falsework**

To support the falsework, approximately 90 piles are required within the 25' setback. Of these 90 piles, approximately 60 will be located within the 25' setback on the Pico side of the Central Canyon and 30 within the 25' setback on the Shorecliffs Middle School side. The approximate location of these piles can be found on the exhibit submitted November 9, 2004 labeled "Temporary Falsework and Pier Construction" showing the blue area in which grading has been eliminated. On this exhibit, the red dots representing falsework piling locations show alignment,

COASTAL COMMISSION  
5-03-013-A1



EXHIBIT # 8  
PAGE 1 OF 7

rather than actual placement. Temporary pilings will be located where the falsework alignment falls within the white area which represents the 25' setback.

Each temporary pile will be a steel beam with an "H" cross section (approximately 14"x15"x 3/4") driven to an anticipated depth of 40 feet. Falsework spans over the wetland area will vary depending on the final location of the temporary falsework piles, but will have a maximum of 135' span over the wetland. Placement and removal of the falsework piles will take place through the use of the crawler crane located outside of the 25' setback. Placing each pile into the ground will involve the use of a diesel pile hammer that is attached to the crane. The reach of the crane will be 30 to 40 feet as required. This reach will allow placement of the pile from a location behind the 25' setback eliminating ground disturbance by construction equipment. The hammer will be suspended from the crane which has the ability to swing around behind itself to pick up new piles for installation. Cross caps are to be constructed from driven pile to driven pile and will have welded connections. An elevated walkway will be constructed to these caps using two scaffold planks approximately 2 feet wide to minimize foot traffic within the 25' setback area. Once the cross caps have been attached to the piles, bents will be erected from the cross caps to the bridge superstructure. The falsework beams located immediately under the bridge will be placed using the crane.

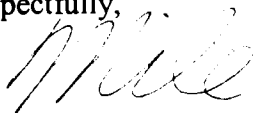
The eventual removal of the temporary piles will be performed with a vibrator hammer. The vibratory action of the hammer will seal the area of the removed pile. Removal of falsework beams over the wetland area will be accomplished through the use of a winching system and a small crane positioned on top of the constructed bridge. The falsework deck spanning the wetlands will be continuous without gaps protecting the wetlands from falling debris or equipment. Silt fences and grading limit fences shall be in place at all times (at proper size, materials, and height) prior to and during any bridge related construction. Following construction, the work area and the 25' setback area will be restored, enhanced or preserved in accordance with the Habitat Management Plan.

### **C. Duration**

It is anticipated that the time involved for temporary pile installation will be 3 weeks. All work associated with this construction will be performed during normal construction hours. Erection of falsework beams and cross caps over the wetland area will take approximately 2 weeks per side. Falsework piles will remain in the ground during bridge construction as needed. Anticipated time that piles will remain in ground will be four months.

Thank you for your ongoing attention to this matter. Please call me with any questions or concerns at (949) 855-3606.

Respectfully,



Michael J. Burke  
Executive Vice President

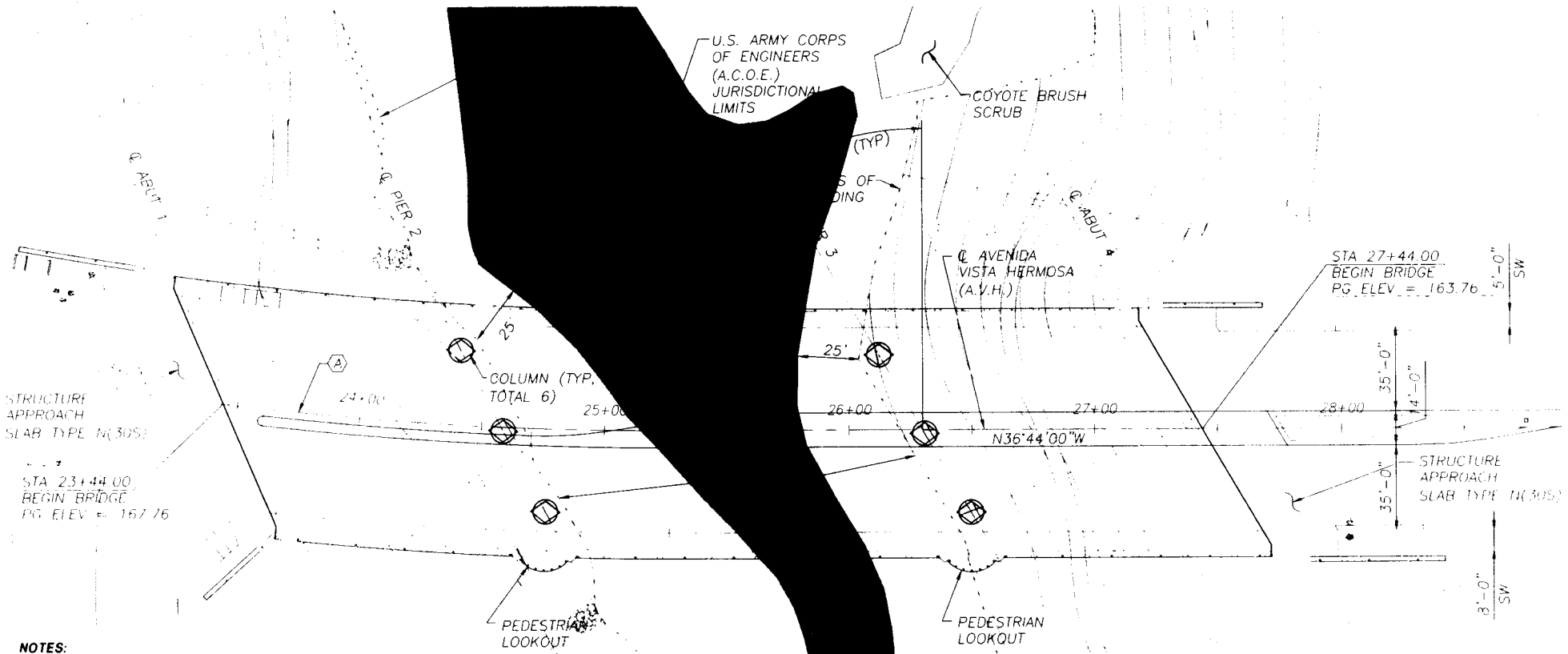
**COASTAL COMMISSION**  
5-03-013-A1

EXHIBIT # 8  
PAGE 2 OF 7



U.S. ARMY CORPS OF ENGINEERS (A.C.O.E.) JURISDICTIONAL LIMITS

CÓYOTE BRUSH SCRUB



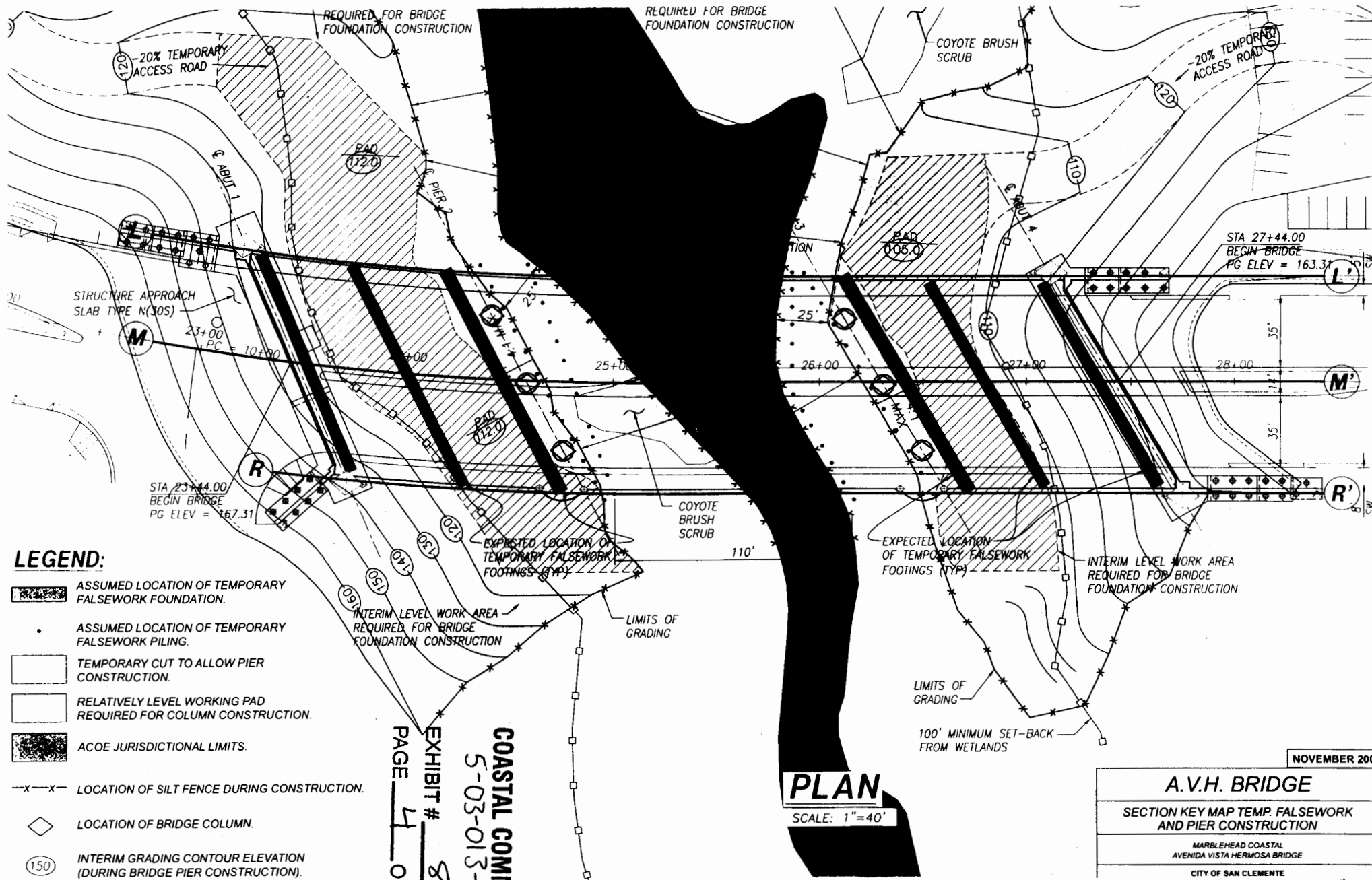
- NOTES:**
1. FOR GENERAL NOTES, SEE "DECK CONTOURS" SHEET
  2. FOR PILE DATA, SEE "FOUNDATION PLAN" SHEET
  3. FOR MANHOLE LOCATIONS, SEE "GIRDER LAYOUT" SHEET
  4. FOR GRADING, SEE ROUGH GRADING PLANS FOR TENTATIVE TRACT NO. 8817
  5. FOR STREET IMPROVEMENTS, SEE STREET IMPROVEMENT PLANS FOR TENTATIVE TRACT NO. 8817
  6. FOR ADDITIONAL ABBREVIATIONS, SEE CALTRANS STD PLAN A10A
  7. A MINIMUM OF 61" VERTICAL CLEARANCE WILL BE PROVIDED BETWEEN THE SOFFIT OF THE COMPLETED BRIDGE AND THE EXISTING SURFACE OF THE A.C.O.E. JURISDICTIONAL LIMITS
  8. SUITABLE HABITAT WILL BE PROVIDED INSIDE THE CONCRETE BOX GIRDER CELLS FOR LOCALLY OCCURRING BAT SPECIES
  9. CONCRETE USED IN THE BRIDGE ABUTMENTS, COLUMNS, AND EXPOSED SURFACES OF EXTERIOR GIRDERS AND BOTTOM SLAB WILL BE STAINED WITH A COLOR WHICH IS COMPATIBLE WITH THE NATURAL GRADING IN THE VICINITY OF THE BRIDGE
  10. ALL EXPOSED SURFACES OF BRIDGE CONCRETE WILL RECEIVE A NON-REFLECTIVE SURFACE TEXTURE AND/OR FINISH
  11. FOR MEDIAN CURB AND SIDEWALK CURBS RADI, SEE STREET IMPROVEMENT PLANS
  12. FOR CURB RAMP DETAILS, SEE "SIDEWALK & CURB RAMP DETAILS" SHEET

**LEGEND:**  
 A.V.H. AVENIDA VISTA HERMOSA  
 (C) INDICATES DECK DRAIN TYPE D-1.

EXHIBIT # 8  
 5-03-013-A1  
 MARBLEHEAD COASTAL  
 PLAN  
 SCALE: 1"=40'

PAGE 3 OF 7

NOVEMBER 2004
<b>A.V.H. BRIDGE</b>
GENERAL PLAN
MARBLEHEAD COASTAL AVENIDA VISTA HERMOSA BRIDGE
CITY OF SAN CLEMENTE



**LEGEND:**









-  ASSUMED LOCATION OF TEMPORARY FALSEWORK FOUNDATION.
-  ASSUMED LOCATION OF TEMPORARY FALSEWORK PILING.
-  TEMPORARY CUT TO ALLOW PIER CONSTRUCTION.
-  RELATIVELY LEVEL WORKING PAD REQUIRED FOR COLUMN CONSTRUCTION.
-  ACOE JURISDICTIONAL LIMITS.
-  LOCATION OF SILT FENCE DURING CONSTRUCTION.
-  LOCATION OF BRIDGE COLUMN.
-  INTERIM GRADING CONTOUR ELEVATION (DURING BRIDGE PIER CONSTRUCTION).

EXHIBIT # 8  
 PAGE 4 OF 7

COASTAL COMMISSION  
 S-03-013-A1

**PLAN**

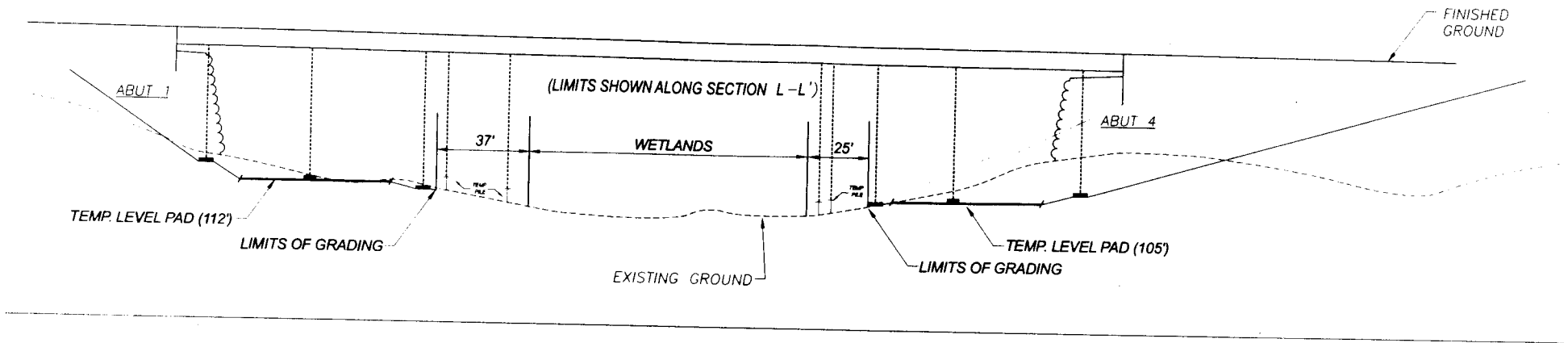
SCALE: 1"=40'

NOVEMBER 200

**A.V.H. BRIDGE**

SECTION KEY MAP TEMP. FALSEWORK AND PIER CONSTRUCTION

MARBLEHEAD COASTAL  
 AVENIDA VISTA HERMOSA BRIDGE  
 CITY OF SAN CLEMENTE



**SECTION L-L'**

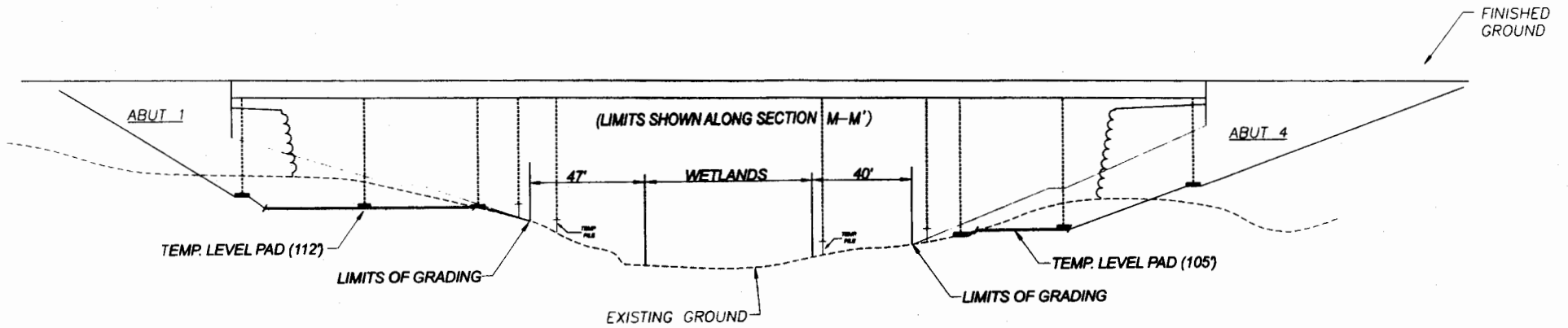
SCALE: 1"=40'

**LEGEND:**

- INDICATES EXISTING GROUND
- ~~~~~ INDICATES PREVIOUSLY-PROPOSED LOFFELSTEN WALLS
- INDICATES FINISHED GROUND
- T INDICATES ELEVATED FALSEWORK FOUNDATION ON TEMP PILE (18" DIAMETER PILE)  
FALSEWORK PLATFORM FOUNDATION ELEVATED TO EXCEED 9' ABOVE EXISTING GRADE AND BE 30' WIDE
- INDICATES TEMP AT GRADE FALSEWORK FOUNDATION
- INDICATES TEMP/GROUND LEVEL FALSEWORK PAD
- ..... INDICATES TEMP. FALSEWORK TO SUPPORT BRIDGE CONSTRUCTION

**COASTAL COMMISSION**  
 5-03-013-A1  
 EXHIBIT # 8  
 PAGE 5 OF 7

**NOVEMBER 2004**  
**TEMPORARY & PROPOSED CONSTRUCTION FOR**  
**AVENIDA VISTA HERMOSA BRIDGE (SECTION L-L')**



**SECTION M-M'**

SCALE: 1"=40'

**LEGEND:**

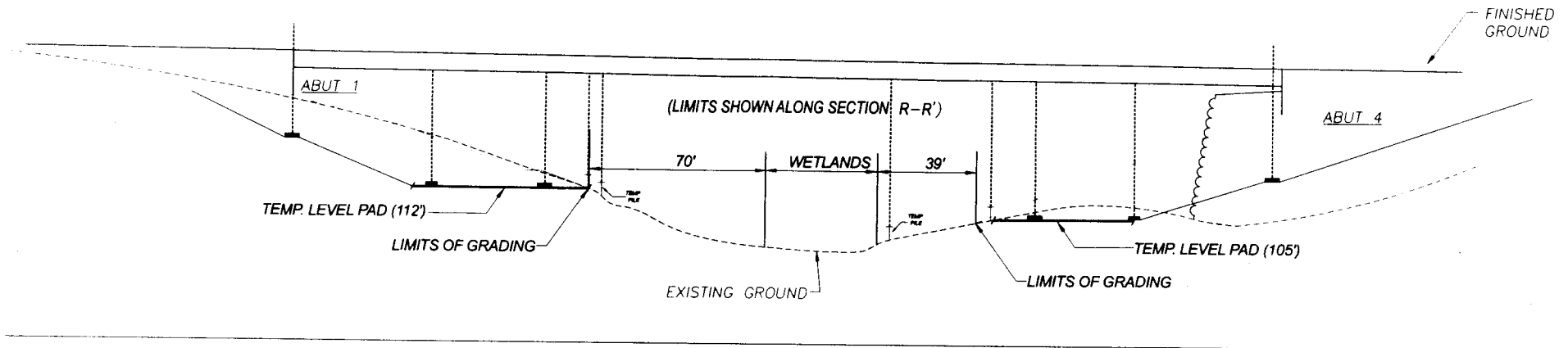
- INDICATES EXISTING GROUND
- ~~~~~ INDICATES PREVIOUSLY-PROPOSED LOFFELSTEIN WALLS
- INDICATES FINISHED GROUND
- T INDICATES ELEVATED PALISADE FOUNDATION ON TEMP PILE 1/4" DIAMETER PILES. PALISADE PLATFORM FOUNDATION ELEVATED TO EXCEED 8" ABOVE EXISTING GRADE AND BE 24" WIDE
- INDICATES TEMPORARY LEVEL PALISADE PAD
- INDICATES TEMP AT GRADE PALISADE FOUNDATION
- INDICATES TEMP PALISADE TO SUPPORT BRIDGE CONSTRUCTION

COASTAL COMMISSION  
 5-03-013-A1  
 EXHIBIT # 8  
 PAGE 6 OF 7

**NOVEMBER 2004**








**TEMPORARY & PROPOSED CONSTRUCTION FOR AVENIDA VISTA HERMOSA BRIDGE (SECTION M-M')**

5 1 1 0



**SECTION R-R'**  
SCALE: 1"=40'

**LEGEND:**  
A.V.H. AVENIDA VISTA HERMOSA

- LEGEND:**
-  INDICATES PREVIOUSLY-PROPOSED LOFFELSTEN WALLS
  -  EXISTING GROUND
  -  INDICATES FINISHED GROUND
  -  INDICATES ELEVATED FALSEWORK FOUNDATION ON TEMP. PILE (18" DIAMETER PILE). FALSEWORK PLATFORM FOUNDATION ELEVATED TO EXCEED 5' ABOVE EXISTING GRADE AND BE 30' WIDE
  -  INDICATES TEMP AT GRADE FALSEWORK FOUNDATION
  -  INDICATES TEMP GROUND LEVEL FALSEWORK PAD
  -  INDICATES TEMP FALSEWORK TO SUPPORT BRIDGE CONSTRUCTION

COASTAL COMMISSION  
5-03-013-A1  
EXHIBIT # 8  
PAGE 7 OF 7

**NOVEMBER 2004**  
**TEMPORARY & PROPOSED CONSTRUCTION FOR AVENIDA VISTA HERMOSA BRIDGE (SECTION R-R')**

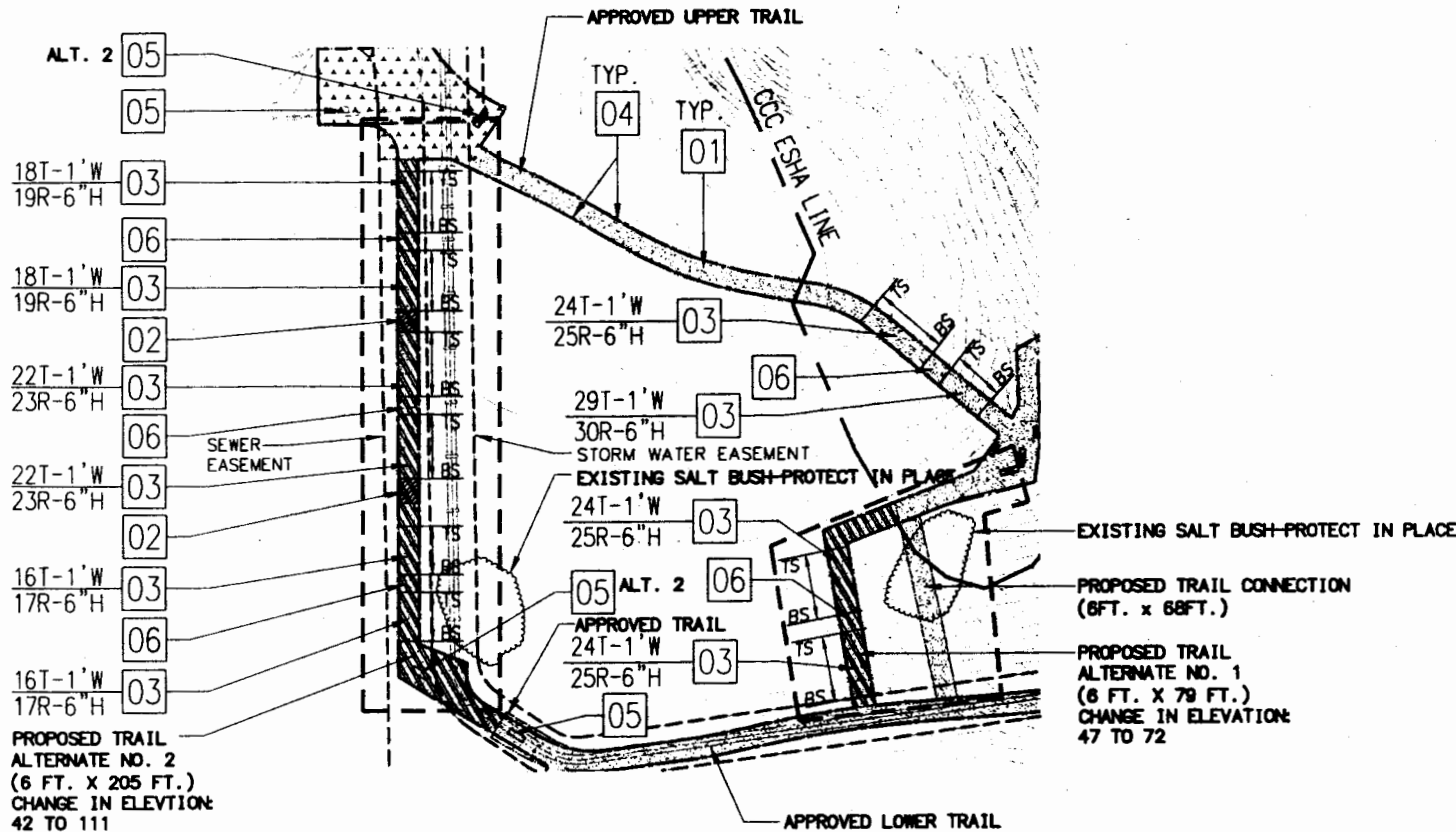
### TRAIL WIDTHS

PATTERN	DESCRIPTION
	6'-0" WIDE PEDESTRIAN TRAIL
	14'-0" WIDE VEHICULAR AND PEDESTRIAN TRAIL

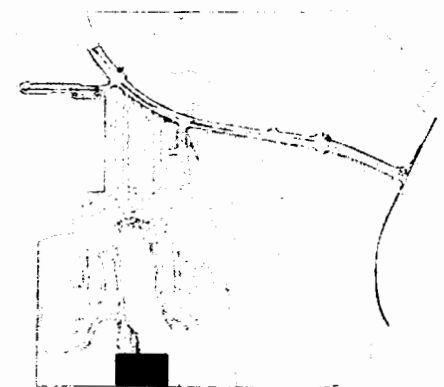
### CONSTRUCTION LEGEND

NUMBER	DESCRIPTION
01	SOIL CEMENT TRAIL
02	TRAIL CROSSING AT 'V' DITCH
03	WOOD STAIRS
04	HABITAT FENCE
05	VISTA POINT
06	LANDING AT WOOD STAIRS

TS - TOP OF STAIR  
BS - BOTTOM OF STAIR



### KEY MAP



COASTAL COMMISSION  
EXHIBIT # 9  
5-03-013-A1  
PAGE 1 OF 1

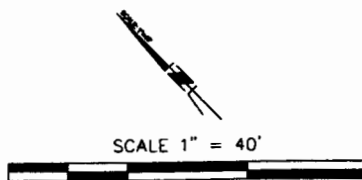


EXHIBIT PREPARED BY:

**RBF**  
CONSULTING

PLANNING ■ DESIGN ■ CONSTRUCTION

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### TRAIL ALTERNATIVE ALIGNMENTS STUDY

NOVEMBER 30, 2004

CITY OF SAN CLEMENTE