

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

**W16b**

Filed: 6/6/11
180th Day: 12/3/11
Staff: Teresa Henry-LB
Staff Report: 10/21/11
Hearing Date: 11/2/11
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-10-258

APPLICANT: Donald E. Goodell

AGENT: Ed Mountford, Hearthside Homes
Nancy Wiley, Scientific Resources Surveys, Inc.

PROJECT LOCATION: East side of the intersection of Brightwater Drive and Bolsa Chica Street, Bolsa Chica, Orange County (APN: 110-016-18)

PROJECT DESCRIPTION: Implementation of an archaeological research plan (ARP) including subsurface investigation of potential cultural resources. The investigation will include a two-series auger program using hollow-stem augers, and small (1x1 meter) hand excavation units, wet screening, laboratory work and report of findings. The purpose of the ARP is to determine if cultural/archaeological resources (such as intact midden, Native American human remains, or archaeological features) are present on the subject site, and to define the boundaries of these areas, using the above methods and techniques that avoid impacts to these resources, if they are present.

The application also requests after-the-fact approval of hand excavation of sixteen 50cm wide by 101cmbs average depth soil profiles that were dug along the edge of the upper terrace. The purpose of the profiles was to penetrate the accumulated fill material in order to expose the "intact soils" revealed by the approved geophysical investigation to determine whether the "intact soils" were "intact midden deposits".

LOCAL APPROVALS RECEIVED: Approval in Concept, County of Orange, OC Communities Planning, OC Public Works, pre-annexation zoning, City of Huntington Beach.

SUMMARY OF STAFF RECOMMENDATION:

The Coastal Act issues involved in the subject application include protection of significant archaeological/cultural resources that have a high potential to exist on the subject site and the protection of biological resources, including Southern tar plant and raptor nesting, roosting and breeding habitat. The subject 6.2 acre site is located on the southeastern portion of the Bolsa Chica Mesa and contains a known archaeological site, CA-ORA-144, "The Water Tower Site", in recognition of a water tower structure that was historically on the site up until the 1980's. However, some archaeologists consider the subject site to be the north-eastern portion of another archaeological site located on the Bolsa Chica Mesa the highly significant archaeological site CA-ORA-83, "The Cogged Stone Site" which lies primarily to the west of Bolsa Chica Street on the Hearthside Homes Brightwater project site. The project archaeologist, Scientific Resources Surveys, Inc. (SRS), agrees that CA-ORA-144 is a part of "The Cogged Stone Site" which is a 9,000 year old archaeological site that was included on the National Register of Historic Places in 2009. Additionally, the Native American Heritage Commission (NAHC) has determined that "The Cogged Stone Site" is a Native American cemetery due to the high number of Native American burials that were found on the site. Beginning in the early 1980's, the predecessor company to Hearthside Homes was granted several coastal development permits to investigate CA-ORA-83, as well as other archaeological sites on the mesa such as CA-ORA-85, "The Eberhart Site", and was also allowed to fully excavate all existing on-site archaeological resources. This work was carried out over a 20 year period and was completed in 2006.

The subject site lies on the southeastern portion of the Bolsa Chica Mesa and is separated from the main portion of CA-ORA-83 by Bolsa Chica Street. Therefore, there is a high likelihood that archaeological/cultural resources are on the project site. However, portions of the subject Goodell site were developed with above and below ground World War II development and still contain remnants of this historic development that may have impacted prehistoric archaeological resources.

The purpose of the proposed archaeological research plan (ARP) is to identify portions of the subject site that contain intact cultural/archaeological resources (such as Native American human remains, archaeological features, or intact midden), and to define the boundaries of these areas using techniques that avoid impacts to these resources, if they are present. An archaeological midden is a prehistoric mound of discarded material used in cooking and food processing and contains marine shell, animal bone, fired rocks, and discarded artifacts and characterized by organic material in the soil such as grease, blood, and body fluids. Midden is "intact" if it is in place and has not been dug up and re-deposited or severely disturbed as the result of historic or modern activities. The purpose of the proposed ARP on the Goodell site is not to excavate intact cultural/archaeological resources as was done on the adjacent Brightwater project site. Any intact cultural/archaeological resources found on the subject site will be left in place and any subsequent development of the site will be designed to avoid further impacts to these resources.

The testing plan is designed to document intact midden, human remains and archaeological features, limiting disturbance to these resources, determine and map their boundaries and then cover and preserve any human remains and/or features in place. The proposed ARP is a two-part mechanical auger and 1x1meter hand unit excavation

program. A hollow-stemmed 16" bucket auger will be used, as opposed to a screw auger, in order to minimize impacts to any existing cultural deposits. Only the portion of the site that has been pre-zoned for subsequent residential use by the City of Huntington Beach will be subject to the proposed testing; which is approximately half of the 6.2 acre site. Areas pre-zoned open space or conservation will not be subject to the proposed investigation since subsequent subsurface development is not contemplated in those areas. Once intact midden areas have been established, boring will cease in those areas in order to limit impact. The applicant proposes to have all subsurface work monitored by Native American monitors with ancestral ties to the area. The NAHC has determined that both the Gabrielino and Juaneno tribal group have ancestral ties to the Bolsa Chica Mesa.

On April 16, 2010 the Executive Director issued exemption 5-10-035-X(Goodell) for the subject site to allow the applicant's archaeological consultant to carry out a surface survey and a geophysical program intended to provide data to be used to generate archaeological maps including site boundaries, location of surface artifacts and other relevant GPS data for the subject ARP. The applicant did not request, nor did the exemption approve, any subsurface work. However, in addition to carrying out the approved geophysical plan the archaeological consultant also excavated by hand, sixteen 50cm wide by 101 cms (centimeters below surface) average depth profiles along the edge of the upper terrace of the subject site. The purpose of the profile excavation was to penetrate the accumulated fill material in order to expose the "intact soils" that were detected during the course of the approved surface (ground penetrating radar) investigation, and thus determine whether the "intact soils" were "intact midden deposits". Because this excavation work was not a part of the exemption or otherwise approved, the applicant is including in the subject application a request to authorize this development after-the-fact. The applicant requested that the ATF development be addressed in the subject application.

In summary, staff recommends that the Commission take one vote adopting a two-part resolution, which would **APPROVE** the proposed archaeological research plan (ARP), subject to conditions requiring the applicant carry out the proposed ARP, within the area of the site planned for future residential development, in a manner most protective of any significant archaeological/cultural archaeological resources (such as intact midden, Native American human remains or archaeological features) by, among other things, minimizing the exposure of and the preservation in place of these resources; the timely preparation and appropriate dissemination of the final report of findings of the approved ARP; the submittal of an equipment staging plan for the protection of Southern tar plant; protection of raptor nesting; and protection of water quality; and **DENY** the after-the-fact (ATF) hand excavation of 16 soil profiles. Staff recommends denial of the ATF portion of the proposed project because the soil profiles were dug without the presence of Native American monitors despite the fact that the project archaeologist had determined that the affected area contained "intact soils" that were probably archaeological "intact midden". Additionally, the profiles were not backfilled upon completion of the excavation. Commission staff is currently reviewing options for further action necessary to resolve this unpermitted development.

Staff Note

The proposed project is the implementation of an archaeological research plan (ARP) which allows subsurface exploration on a site that contains a known, mapped

archaeological site. Boundaries of mapped archaeological sites are not exact; intact archaeological resources may be present within or outside of a mapped archaeological site, or no longer present due to historic or modern development or vandalism. Through previous archeological testing the site has been found to contain soils that indicate that intact archaeological resources may be present. Due to the sensitive nature of Native American archaeological resources recorded within the proposed ARP, and consistent with State Government Code, section 6254, subsection (r); the proposed ARP is not attached as an exhibit to the staff report. The ARP will be available at the hearing for review only by Coastal Commissioners, the deputy attorney general, and appropriate Commission staff and will be collected by staff following Commission review and kept in confidential records at the Commission office.

Standard of Review

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The subject site lies within the Bolsa Chica segment of Orange County. There is no LUP or IP for the Bolsa Chica segment of the County of Orange Local Coastal Program. The standard of review is therefore Chapter 3 of the Coastal Act and the Coastal Commission is the permit issuing entity for this area.

However, the subject site is pending annexation to the City of Huntington Beach. The City of Huntington Beach has pre-zoned the subject 6.2 acre site for low density residential, open space and conservation use. The City of Huntington Beach has a certified LCP but it will not be applicable to the project site until the area is annexed into the City and the City amends its LCP to include the site. The Commission recently approved an amendment to the certified City of Huntington Beach LCP for the Parkside Estates site, which is immediately adjacent to the subject site to the east. Land Use Plan Amendment HNB-MAJ-1-06 was approved by the Commission in November, 2007. The Implementation Plan Amendment HNB-MAJ-1-10 was approved in January, 2010. The Parkside Estates LUP Amendment is fully certified and the Commission concurrence with the Executive Director's determination that the City has fully incorporated its action on the IP Amendment is scheduled for the same Commission meeting as the subject application. Therefore, to the extent that the certified Huntington Beach LCP, as amended applies to the subject site, it may be used for guidance.

SUBSTANTIVE FILE DOCUMENTS: Cultural Resource Constraint Analysis on Archaeological Site CA-ORA-144, "The Water Tower Site" [A Part of CA-ORA-83 "The Cogged Stone Site"], The Goodell Parcel, prepared by Scientific Resource Surveys, Inc., SRS Project No. 1731, dated October 13, 2011; 5-10-035-X(Goodell); 5-11-011(Shea Homes-Parkside); 5-11-068(Shea Homes-Parkside); HNB-MAJ-1-06; HNB-MAJ-1-10; (5-05-020(Hearthside Homes - Brightwater); R5-05-020(Hearthside Homes - Brightwater); 5-05-479(Goodell); "Results of General Biological Surveys and Minimization Recommendations in Preparation for the Auger Program – Goodell Property, City of Huntington Beach, California", letter from LSA Associates, Inc., dated March 3, 2011; "Supplement to Results of General Biological Surveys and Minimization Recommendations in Preparation for the Auger Program

– Goodell Property, City of Huntington Beach, California”, LSA Associates, Inc., dated June 3, 2011.

STAFF RECOMMENDATION:

I. STAFF RECOMMENDATION OF APPROVAL IN PART AND DENIAL IN PART

Staff recommends that the Commission adopt the following two-part resolution. The motion passes only by affirmative vote of a majority of the Commissioners present. The Commission needs to make two motions and take two votes to act on this recommendation.

A. Motion

“I move that the Commission adopt the staff recommendation to approve in part and deny in part Coastal Development Permit No. 5-10-258, by adopting the two part resolution set forth in the staff report.”

B. Resolution

Part 1: Approval with Conditions of a Portion of the Development

The Commission hereby **APPROVES**, as conditioned, a coastal development permit for the portion of the proposed development regarding the implementation of the proposed archaeological research plan (ARP) and report of findings and adopts the findings set forth below on grounds that the development, 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 of the Coastal Act. Approval of this portion of the permit 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 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 development on the environment.

Part 2: Denial of the Remainder of the Development

The Commission hereby **DENIES** the ATF portion of the proposed application for coastal development permit for the hand excavation of sixteen soil profiles, and adopts the findings set forth below, on the grounds that the development would not conform with the policies of Chapter 3 of the Coastal Act and would 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 of the Coastal Act. Approval of this portion of the application would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

The proposed project is subject to the following Special Conditions:

1. Protection of Archaeological Resources

The applicant shall carry out the proposed archaeological investigation as proposed in the revised archaeological research plan (ARP) entitled, "Cultural Resource Constraint Analysis on Archaeological Site CA-ORA-144, "The Water Tower Site" [A Part of CA-ORA-83 "The Cogged Stone Site"], The Goodell Parcel", by Scientific Resource Surveys, Inc., SRS Project No. 1731, dated October 13, 2011, and as modified by the Special Conditions contained herein.

All work shall be consistent with the applicable State of California Office of Historic Preservation (OHP) standards for archaeological work and done in a manner that is most protective of any "intact midden", human remains or archaeological features, and shall be monitored by Native American monitor(s) from each of the Gabrielino and Juaneno tribal groups, as designated by the Native American Heritage Commission (NAHC) as the tribal groups with documented ancestral ties to the area, and the Native American most likely descendent (MLD) from each of the said tribal groups, when State Law mandates identification of a MLD. Accordingly, this permit does not authorize any subsurface investigation within any known "intact midden", as shown in revised Figures 3 and 4 of the Plan dated October 13, 2011. Further, as proposed by the applicant, all auger borings shall be placed a sufficient

distance from the “intact midden”, as shown in revised Figures 3 and 4, such that any necessary excavation of hand units shall not encroach into “intact midden” deposits. For purposes of this permit, midden soils shall be considered to be “intact” if it is in place and has not been dug up and re-deposited or severely disturbed as the result of historic or modern activities. If any “intact midden”, human remains or archaeological features are encountered, exposure of the resources shall be minimized to the maximum extent feasible and they shall be documented, left in place, and reburied as soon as possible. If human remains are encountered, the permittee shall comply with applicable State and Federal laws, including but not limited to, contacting the County Coroner, Native American Heritage Commission (NAHC) and the most likely descendent (MLD). Human remains shall be left in situ and shall be excavated only to the extent necessary for the archaeologist and Coroner to make the necessary determination as to whether the bone is human and whether it represents a modern forensic case. Unless required by the County Coroner, subsequent human bones shall not be excavated unless excavation is necessary to determine whether they are human in origin and the extent of excavation shall be the minimum necessary to make the determination.

Any disputes in the field regarding the discovery of any intact midden, human remains or archaeological features arising among the applicant, the archaeologist, and/or the Native American monitors or Native American MLD, when State law requires the designation of an MLD, shall be promptly reported to the Executive Director via e-mail and telephone and the investigation shall be halted in the area(s) of dispute. Work may continue in area(s) not subject to dispute. Disputes shall be resolved by the Executive Director in consultation with the designated three archaeological peer reviewers, the archaeologist, Native American monitors and the Native American MLD, when State law requires the designation of an MLD, and the applicant. If disputes cannot be resolved by the Executive Director in a timely fashion, said disputes shall be reported to the Commission for resolution at the next regularly scheduled Commission meeting.

2. Final Report

At the completion of the field investigation, matrix sorting and laboratory analysis, and the applicant shall prepare a technical report of findings. The report shall be in accordance with all applicable guidelines, including but not limited to the State of California Office of Historic Preservation Archaeological Resource Management Reports (ARMR) and California Historical Resources Information System and shall be subject to the review and approval of the Executive Director. As proposed by the applicant, a draft report shall be prepared within three months of completion of field excavation and matrix sorting, and analysis. Review copies of the draft shall be submitted to the Juaneno and Gabrielino Most Likely Descendants, the Peer Review Team, the Native American Heritage Commission, the State Historic Preservation Office, the landowner and their representative and the Executive Director. After review, comment and incorporation of comments of all parties and any necessary revisions, the final report will be distributed to involved agencies (e.g. NAHC, SHPO, CCC), local government entities (e.g. County of Orange, City of Huntington Beach), the designated archaeological information center (SCIC at California State University, Fullerton), affected Native American groups (Juaneño

and Gabrielino tribes) and interested professionals (Peer Reviewers and other local archaeologists). The report shall be used in consideration of the determination of the appropriate type, location and intensity of development allowed in conjunction with any subsequent coastal development permit application for the subject site.

Due to the sensitive nature of the report contents, and consistent with State Government Code, section 6254, subsection (r), the report will be held as 'confidential' and not made available to the general public.

3. Protection of Biological Resources - Equipment Staging Plan

- A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit equipment staging plans for the review and approval of the Executive Director. Said plans shall incorporate the Recommended Minimization Measures contained in the March 3, 2011 letter from LSA Associates, Inc. entitled "Results of General Biological Surveys and Minimization Recommendations in Preparation for the Auger Program – Goodell Property, City of Huntington Beach, California" and the June 3, 2011 letter by LSA Associates, Inc., entitled, "Supplement to Results of General Biological Surveys and Minimization Recommendations in Preparation for the Auger Program – Goodell Property, City of Huntington Beach, California" and shall indicate that the equipment staging area(s) and work corridor(s), including the wet screening area(s), will avoid impacts to Southern tar plant. Access to the work area shall be via the existing adjacent street (Bolsa Chica Street) only. Upon completion of the approved field work, all borings and hand excavation units shall be backfilled, all equipment and materials shall be removed and the project site shall be restored to the conditions that existed prior to the approved field work.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved staging plans shall be reported to the Executive Director. No changes to the approved staging plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Protection of Nesting Raptors

No mechanical boring shall be permitted within five hundred (500) feet of an occupied raptor nest during the nesting season (February 15 through August 31). One week prior to the commencement of the approved development, the applicant shall conduct a survey of all trees within the southern Eucalyptus ESHA that are within five hundred (500) feet of the work area, to determine if raptor nesting is occurring. The survey shall be conducted by a qualified biologist. The applicant shall submit, subject to the review and approval of the Executive Director, the biologist's survey, including a map of the required survey area and survey report. The survey and report shall be submitted to the Executive Director within 2 days of completion and prior to commencement of any mechanized work.

5. Storage of Materials, Mechanized Equipment and Removal of Debris

The permittees shall comply with the following construction-related requirements:

- A.** No materials, debris, or waste shall be placed or stored where it may enter a storm drain or be subject to tidal erosion and dispersion;
- B.** Any and all debris resulting from development activities shall be removed from the project site within 24 hours of completion of work;
- C.** Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or run-off of materials, and to contain sediment or contaminants associated with mechanical boring, excavation and wet screening activity, shall be implemented prior to the onset of such activity. BMPs and GHPs which shall be implemented include, but are not limited to: storm drain inlets must be protected with sandbags or berms, all stockpiles must be covered, and a pre-construction meeting should be held for all personnel to review procedural and BMP/GHP guidelines. All BMPs shall be maintained in a functional condition throughout the duration of the project.
- D.** Debris and sediment shall be properly contained and secured on site with BMPs, to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking. Debris and sediment shall be removed from project areas as necessary to prevent the accumulation of sediment and other debris, which may be discharged into coastal waters. Debris shall be disposed at a debris disposal site outside the coastal zone.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares as follows:

A. Project Description, Location and Background

1. Project Description

The applicant requests to implement an archaeological research plan (ARP) in order to determine the areas of the 6.2 acre site that can be subsequently developed in a manner that avoids impacts to any intact archaeological resources that may be present. The ARP proposes only to investigate a 3.2 acre portion of the site that has been pre-zoned by the City of Huntington Beach for subsequent residential development (Exhibit 3). The initially proposed ARP, '*Cultural Resource Constraint Analysis on Archaeological Site CA-ORA-144, "The Water Tower Site" [A Part of CA-ORA-83 "The Cogged Stone Site"], The Goodell Parcel*', prepared by Scientific Resource Surveys, Inc., SRS, is dated May 31, 2011. However, the May 31, 2011 submittal was superseded by a later version dated October 13, 2011. The revised plan makes two significant changes: (1) as recommended

by staff, proposed hand excavation units have been relocated outside of known “intact midden” soils with revised Figures 3 and 4 showing such revision; and (2) includes the request for after-the-fact approval of the hand excavation of 16 soil profiles that were dug in 2010 along the edge of the upper terrace of the site. The profiles, although not approved, were dug at the time the applicant carried out the approved geophysical surface investigation pursuant to permit exemption 5-10-035-X (Goodell) that was issued by the Executive Director on April 16, 2010. Each profile measures 50cm wide by 101cmbs (centimeters below surface) average depth. The purpose of the profiles was to penetrate the accumulated fill material in order to expose the “intact soils” revealed by the 2010 approved geophysical investigation to determine whether the “intact soils” were “intact midden deposits”.

The proposed archaeological research plan (ARP) is a subsurface investigation for the purpose of determining the presence of intact midden, Native American human remains and/or archaeological features and accurately establishing the boundaries of these archaeological/cultural resources. An archaeological midden is a prehistoric mound of discarded material used in cooking and food processing and contains marine shell, animal bone, fired rocks, and discarded artifacts and characterized by organic material in the soil such as grease, blood, and body fluids. Midden is “intact” if it is in place and has not been dug up and re-deposited or severely disturbed as the result of historic or modern activities. As proposed, all field work will be monitored by Native American representatives from both the Gabrielino and Juaneno tribal groups under the direction of most likely descendants (MLD) Gabrielino Chief Anthony Morales and Juaneno Chief David Belardes. The Native American Heritage Commission (NAHC) has determined that both the Gabrielino and Juaneno tribal groups have ancestral ties to the subject site. The proposed Plan incorporates the concerns of the affected Native American tribal groups, as well as the three archaeologist peer reviewers and NAHC (Exhibit 7).

The proposed ARP is based on “predictive modeling” in that it is designed in consideration of the records searches, archival research, and field work carried out on the Bolsa Chica Mesa since the 1920’s. The Plan will be carried out in two phases. A two-part auger program, on a five-meter grid pattern, is proposed to systematically search the pre-zoned residential area for midden. Once relatively intact midden deposits have been located, the second part of the program, delineation of the midden boundaries will occur. Small (1x1 meter) hand units will be excavated in order to determine if a find is an isolated artifact, human bone, or archaeological feature and to determine the boundaries of any subsurface intact prehistoric resources.

Following auger boring and hand unit excavation, all material collected will be water screened using 1/8-inch hardware cloth. While the field work is in process, basic laboratory documentation and initial analyses will occur which will compliment the field observations. The final step of the proposed project is the preparation of a technical report upon the completion of field work and all laboratory analysis. The applicant proposes to submit a draft report within three months of completion of the field working and matrix sorting. The applicant also proposes to distribute the final report to involved agencies (NAHC, SHPO and the Coastal Commission), to municipal entities, the designated archaeological information center at California State University, Fullerton, and affected Native American groups. Due to the sensitive nature of the report contents, the report will

be held as 'confidential' and not made available to the general public, consistent with State Government Code, section 6254, subsection (r).

2. Project Location

The subject site is located on the upper Bolsa Chica Mesa in the unincorporated Bolsa Chica area of the County of Orange. The site is surrounded by the City of Huntington Beach. Immediately east of the subject site is the Parkside Estates site that was before the Commission in October 2011; to the west is Bolsa Chica Street and the Hearthside Homes Brightwater project site that was approved by the Commission in 2005 for subdivision, single family residential development, habitat restoration and public trails; to the north is Hearthside Homes the Ridge site for which the City of Huntington Beach has a pending application for an LCP amendment change the land use designation at the Ridge site from Open Space – Parks (OSP) to Residential Low Density and change the zoning designation from Residential Agriculture – Coastal Zone Overlay (RA – CZ) to Low Density - Coastal Zone Overlay (RL-CZ) to allow the site to be developed with single family residential development uses; and to the south a Eucalyptus grove on the Brightwater site which has been designated ESHA by the Department of Fish and Game and the Coastal Commission (Exhibits 1, 2 and 3).

The subject site is 6.2 acre in size and its geography, from highest to lowest elevations, consists of 1) a natural upper terrace; 2) a second terrace artificially created with sediments that overlie the World War II historic Bolsa Chica Military Reservation PSR Building and which contains roadways formed by cutting back the upper mesa edge; 3) steep slopes; and 4) lower bay flatlands. The City of Huntington Beach has pre-zoned the site low density residential, open space and conservation (Exhibit 3). The area zoned Open Space or Conservation encompasses portions of both the natural upper terrace and the second terrace; all of the steep slopes; and all of lower bay flatlands. No investigations are proposed on the steep slopes or in the lowlands since these areas are preserved in open space or conservation land use.

3. Project Background

A. Previous Nearby Archaeological Investigations

Archaeological investigations have been on-going on Bolsa Chica Mesa since the 1920s. Among the numerous excavations over the last 90 years, three are especially important in predictive modeling of the potential archaeological deposits on the subject Goodell site. As stated above, the project site is located on the eastern Bolsa Chica Mesa and contains a mapped archaeological site, CA-ORA-144, "The Water Tower Site". Some archaeologists, including the project archaeologist, believe CA-ORA-144 to be actually a part of the highly significant CA-ORA-83 which is a 9,000 year old archaeological site known as the Cogged Stone Site, due to the great number of cogged stone artifacts recovered. ORA-83 has been twice found by the State Historical Resources Commission to be eligible for listing in the National Register of Historic Places. The Cogged Stone Site also lies on three other adjacent sites: the Hearthside Homes "Brightwater" site, located on the west side of Bolsa Chica Street; Hearthside Homes the "Ridge" project site, located on the east side of Bolsa Chica Street, adjacent to Los Patos Avenue; and the Parkside Estates site, located immediately east of the subject Goodell site (Exhibit 2). The 105 acre

Brightwater development site was recently annexed into the City of Huntington Beach. The predecessor companies to Hearthside Homes received several coastal development permits, beginning in the early 1980's, to conduct archaeological research, salvage and relocation (on-site) of any human remains, features and artifacts that were found. The archaeological research, salvage and on-site reburial took place over the course of approximately 28 years with the final reburial occurring in spring 2009. The State of California Office of Historic Preservation has determined that the site was eligible under Criteria A and D for listing as a National Historic Site. Under Criteria A, as a type site for production, manufacture and distribution of the cogged stone artifact and an historic site that represents an Early Holocene ceremonial complex important to the local Native American communities; and under Criterion D since the site has produced hundreds of cogged stones, human remains, numerous semi-subterranean pit houses, and other artifacts, the site is considered highly significant with regard to research potential particularly if this information is combined with other archaeological and ethnographic evidence. During the 2008 revocation hearing for the Brightwater coastal development permit [R5-05-020(Hearthside Homes)] the Commission found that approximately 160 human burials, and several animal burials, over 100 significant archaeological features such as house pits, rock pits, hearths and tens of thousands of beads, charmstones cogged stones and other artifacts have been found on CA-ORA-83. The final archaeological report for ORA-83 is still pending. Hearthside Homes Ridge project site is located immediately northwest of the project site and is covered by the certified Huntington Beach Local Coastal Program. That site has undergone numerous extensive surface and subsurface archaeological investigations. A hand excavated test pit dug on this site revealed the presence of a prehistoric archaeological/cultural feature that has since been completely removed, according to SRS, Inc.

B. Previous On-Site Archaeological Investigation

With the exception of the unpermitted excavation of 16 soil profiles that occurred in 2010, the only subsurface archaeological investigation conducted on the Goodell property was occurred in 1960's. As discussed below, unpermitted subsurface investigation in the form of hand excavation of 16 soil profiles was carried out. In 2009 and 2010 records and archival searches and surface investigations were conducted in an attempt to gain a better understanding of the potential archaeological resources of the site. On April 16, 2010 the Executive Director approved an exemption [5-10-035-X (Goodell)] for the property owner to conduct a surface archaeological investigation with the use of ground penetrating radar in order to further refine the necessary archaeological research design plan that is being developed for that site. Other than the placement of stakes to mark grids, no ground disturbance or subsurface excavation or earth movement was permitted (Exhibit 4).

C. Previous On-Site Historical Development

The subject site contains remnants of historic World War II (WWII) development. The site geography, from the highest to lowest elevations, consists of 1) a natural upper terrace; 2) a second terrace artificially created with sediments that overlie the WWII Bolsa Chica Military Reservation Plotting and Spotting Room (PSR) Building as well as roadways formed by cutting back the upper mesa edge; 3) steep slopes; and 4) lower bay flatlands. The second terrace was carved into its present configuration when the WWII PSR facility was built. Still present on the subject site are a long rectangular concrete structure and two

square air shafts surfacing from within the building located on the northeast portion of the site (Exhibit 3). Roadways encircle the subsurface bunker and lead downhill next to the long entrance shaft; the majority of the second terrace consists of soils covering this immense concrete structure. A retaining wall for the upper terrace was created during construction of the bunker to support the upper terrace after the natural hillside had been removed to accommodate the PSR building. Areas outside the actual bunker location have also been flattened by the WWII work, removing all natural sediments and exposing the Pleistocene terrace soils. During this localized but extensive subsurface work any existing prehistoric archaeological resources may have been dug up and re-deposited or severely disturbed. Subsequent vandalism of the abandoned historic bunker facility could have also resulted in disturbance to archaeological resources in this area of the site. A portion of the same area where the historic structures were built currently experiences further disturbance with the construction and use of unauthorized dirt bike ramps.

B. APPROVAL FINDINGS AND DECLATIONS

1. Archaeological Resources

Section 30244 of the Coastal Act states:

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

Additionally, the Huntington Beach certified Land Use Plan, used as guidance, contains policies for the protection of historical and cultural resources. Policies C5.1.1, C5.1.2, C5.1.3, C5.1.4, and C5.1.5 5 of the Coastal Element are attached as Exhibit 10 and require: (1) Coordination with State of California Historic Preservation Office to ensure protection of archaeological, paleontological and historically significant resources; (2) reasonable mitigation measures be provided where development would adversely impact archaeological or paleontological resources; (3) requires the notification of the County Coroner, NAHC and MLD upon the discovery of human remains and consultation with MLD regarding disposition of Native American human remains; (4) requires the submittal of a completed ARD along with the application for a CDP within any area containing archaeological or paleontological resources. The ARD is required to determine the significance of any uncovered artifacts and make recommendations for preservation. The ARD must be developed in consultation with affected Native American groups and also contain a discussion of important research topics, and be reviewed by at least 3 peer reviewers and OHP. Finally, the LUP requires that the permittee comply with the requirements of the peer review committee to assure compliance with the mitigation measures of the ARD and (5) requires that a County-certified paleontologist/archaeologist and a Native American monitor all grading operations where there is a potential to affect cultural or paleontological resources, based on the ARD. If paleontological/archaeological resources are uncovered during grading operations, either monitor are required to suspend all development activity to avoid destruction of resources until a determination can be made as to the significance of the resource. If the resource is found to be significant, the site(s) shall be tested and preserved until a recovery plan is completed to assure the protection of the paleontological/archaeological resources.

The recently amended Huntington Beach LCP Implementation Plan for the adjacent Parkside Estates area contains development standard in Chapter 230, Site Standards regarding the protection of archaeological resources. Although the Huntington Beach LCP does not currently apply to the project site since the site has yet to be annexed into the City and the City would need to amend its certified LCP to include policies and development standards for the subject site, the archaeological resources on the subject site are potentially more significant than those on the adjacent Parkside site. Therefore, the Commission considers the development standards designed to protect archaeological resources contained in the Huntington Beach LCP Implementation Plan as guidance. The standards are:

Section 230.82 E

Archaeological/Cultural Resources Within the coastal zone, applications for grading or any other development that has the potential to impact significant archaeological/cultural resources shall be preceded by a coastal development permit application for implementation of an Archaeological Research Design (ARD). This is required when the project site contains a mapped archaeological site, when the potential for the presence of archaeological/cultural resources is revealed through the CEQA process, and/or when archaeological/cultural resources are otherwise known or reasonably suspected to be present. A coastal development permit is required to implement an ARD when such implementation involves development (e.g. trenching, test pits, etc.). No development, including grading, may proceed at the site until the ARD, as reflected in an approved coastal development permit, is fully implemented. Subsequent development at the site shall be subject to approval of a coastal development permit and shall be guided by the results of the approved ARD.

Archaeological Research Design (ARD) The ARD shall be designed and carried out with the goal of determining the full extent of the on-site archaeological/cultural resources and shall include, but not be limited to, postulation of a site theory regarding the archaeological and cultural history and pre-history of the site, investigation methods to be implemented in order to locate and identify all archaeological/cultural resources on site (including but not limited to trenching and test pits), and a recognition that alternative investigation methods and mitigation may become necessary should resources be revealed that indicate a deviation from the initially espoused site theory. The ARD shall include a Mitigation Plan based on comprehensive consideration of a full range of mitigation options based upon the archaeological/cultural resources discovered on site as a result of the investigation. The approved ARD shall be fully implemented prior to submittal of any coastal development permit application for subsequent grading or other development of the site. The ARD shall also include recommendations for subsequent construction phase monitoring and mitigation should additional archaeological/cultural resources be discovered.

The ARD shall be prepared in accordance with current professional practice, in consultation with appropriate Native American groups as identified by the Native American Heritage Commission (NAHC), NAHC, and the State Historic Preservation Officer, subject to peer review, approval by the City of Huntington Beach, and, if the

application is appealed, approval by the Coastal Commission. The peer review committee shall be convened in accordance with current professional practice and shall be comprised of qualified archaeologists.

Mitigation Plan The ARD shall include appropriate mitigation measures to ensure that archaeological/cultural resources will not be adversely impacted. These mitigation measures shall be contained within a Mitigation Plan. The Mitigation Plan shall include an analysis of a full range of options from in-situ preservation, recovery, and/or relocation to an area that will be retained in permanent open space. The Mitigation Plan shall include a good faith effort to avoid impacts to archaeological/cultural resources through methods such as, but not limited to, project redesign, capping, and placing an open space designation over cultural resource areas.

A coastal development permit application for any subsequent development at the site shall include the submittal of evidence that the approved ARD, including all mitigation, has been fully implemented. The coastal development permit for subsequent development of the site shall include the requirement for a Monitoring Plan for archaeological and Native American monitoring during any site grading, utility trenching or any other development activity that has the potential to uncover or otherwise disturb archaeological/cultural resources as well as appropriate mitigation measures for any additional resources that are found. The Monitoring Plan shall specify that archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, and Native American monitor(s) with documented ancestral ties to the area appointed consistent with the standards of the Native American Heritage Commission (NAHC) shall be utilized. The Monitoring Plan shall include, but not be limited to: 1) procedures for selecting archaeological and Native American monitors; 2) monitoring methods; 3) procedures that will be followed if additional or unexpected archaeological/cultural resources are encountered during development of the site including, but not limited to, temporary cessation of development activities until appropriate mitigation is determined. Furthermore, the Monitoring Plan shall specify that sufficient archaeological and Native American monitors must be provided to assure that all activity that has the potential to uncover or otherwise disturb cultural deposits will be monitored at all times while those activities are occurring. The Monitoring Plan shall be on-going until grading activities have reached sterile soil.

The subsequent mitigation plan shall be prepared in consultation with Native American Heritage Commission (NAHC), Native American tribal group(s) that have ancestral ties to the area as determined by the NAHC, and the State Historic Preservation Officer, subject to peer review.

All required plans shall be consistent with the City of Huntington Beach General Plan and Local Coastal Program and in accordance with current professional practice, including but not limited to that of the California Office of Historic Preservation and the Native American Heritage Commission, and shall be subject to the review and approval of the City of Huntington Beach and, if appealed, the Coastal Commission.

Coastal Act Section 30244 requires that any impacts to significant archaeological resources be reasonably mitigated. Avoidance of impacts to archaeological resources is the preferred alternative, which will avoid mitigation requirements. In the past, as with the Brightwater site, previous Commissions have allowed archaeological research designs (ARD) to be carried out that excavated Native American and other archaeological resources for the purpose of analyzing the artifacts and features as well as human remains, in order to provide information on prehistoric times and conditions. The Native American human and animal remains were reburied on the project site in a permanent open space area but artifacts and features were often sent to museums. These were standard mitigation measures that also served to allow for residential or other types of development of the majority of the site after the resources were relocated. Increasingly, Native Americans, as well as some archaeologists and environmental organizations have found these mitigation measures to be objectionable and have petitioned the Commission to avoid impacts by allowing the archaeological resources to remain in place, especially when the archaeological resources are Native American human remains.

The proposed project is to carry out an archaeological research plan (ARP) to determine if intact cultural/archaeological resources exist on the site and to determine the boundaries of such resources, if they exist. No other development is proposed at this time. The results of the proposed ARP will be used in conjunction with the earlier on-site geophysical investigation (and unpermitted soil profiles) to determine the appropriate area for future development of the site. Previous archaeological investigations of the site in the 1960s and in 2009 and 2010 have indicated that intact soils including intact midden soils exist on the subject site. The proposed ARP was guided by the information obtained through previous archaeological investigations performed on-site and on adjacent properties, including geophysical, subsurface and records searches. Based on the previous archaeological investigations the City of Huntington Beach has pre-zoned the 6.2 ac site for residential (3.2 ac - RL), open space-parks and recreation (2.0 ac – OS-PR) and conservation use (1.0ac - CC). The ARP proposes investigation of only the portion of the site pre-zoned for future residential use (Exhibit 3).

The revised archaeological research plan (ARP), '*Cultural Resource Constraint Analysis on Archaeological Site CA-ORA-144, "The Water Tower Site" [A Part of CA-ORA-83 "The Cogged Stone Site"]*, *The Goodell Parcel*', prepared by Scientific Resource Surveys, Inc., SRS, dated October 13, 2011 proposes all augers and hand unit excavation outside of known "intact midden" soils. As proposed, all field work will be monitored by Native American representatives from both the Gabrielino and Juaneno tribal groups under the direction of most likely descendants (MLD) Gabrielino Chief Anthony Morales and Juaneno Chief David Belardes. The Native American Heritage Commission (NAHC) has determined that both the Gabrielino and Juaneno tribal groups have ancestral ties to the subject site. The revised ARP also includes a request for the after-the-fact approval of the hand excavation of 16 soil profiles that were dug in 2010 along the edge of the upper terrace of the site.

The proposed ARP has been modified by the applicant, and is conditioned by Special Condition 1, to avoid encroachment into known "intact midden" deposits since development within intact midden, even testing, would not be most protective of archaeological resources. As detailed below in Section IV.C of this staff report, staff is recommending that the Commission deny the proposed after-the-fact development of the

16 soil profiles because they were not excavated in a manner most protective of archaeological/cultural resources since Native American monitors and were not present and because the excavations were not backfilled, the development also was not done in a manner most protective the exposed midden soils and of marine water quality since.

The proposed ARP will be carried out in two phases. A two-part auger program, on a five-meter grid pattern, is proposed in order to systematically search existing portions of the pre-zoned residential area for midden; and then uses a second set of auger borings to accurately define midden boundaries. A 12" hollow-stemmed bucket auger (rather than a screw auger) will be utilized to provide the least amount disturbance. Further, the shaft of the auger will be marked in 20 cm intervals to aid in depth control and thereby further reducing the potential impacts to any archaeological resources. The proposed use of hollow-stem augers is to allow for deep penetration, beneath historic development, and any hard clay layer that may be present on the site. Although the applicant has chosen to use a hollow-stem auger as opposed to the screw type auger and to use the smaller bucket (12" as opposed to 16") in order to minimize disturbance, there is still a potential to impact archaeological/cultural resources that are present. In accordance with the concerns expressed by the Native Americans designated by NAHC as having ancestral ties to the area, as well as the recommendations of the three archaeologist peer reviewers (Exhibit 7), in the areas suspected of containing human remains, features or intact midden, one meter square hand units will replace auger borings in an attempt to minimize impacts to these resources, if they are present. After the soils are removed from the bucket, they will be measured for stratigraphic change, recorded and then screened for artifacts. If an auger borings recover historic material or disturbed soils associated with structural foundations or a significant find, such as but not limited to, unusual shell or faunal remains; special artifacts such as cogged stones or charmstones; projectile points or pestles; fired rocks; or human bone, further excavation will be carried out in the least invasive fashion in order to establish the source of the find. 1x1meter units will be then be hand excavated.

A second set of auger borings, if necessary, and 1x1 meter hand excavation units, will be used to accurately define boundaries of any intact archaeological resources. According to the proposed ARP, each auger boring will be deep enough to extend below the strata that would contain any midden deposits into clearly defined sterile soils (Pleistocene terrace deposits). This is an important aspect of the ARP as experience on the adjacent Brightwater site found that burials were beneath the 'hard clay layer' and were found to exist despite the fact that the site was thought to contain limited intact prehistoric resources given the long-term agricultural (including plowing) activities and the construction of subsurface historic World War II (WWII) facilities among other activities. The proposed ARP also recognizes that prehistoric midden deposits may still exist below the historic WWII materials that were constructed on the subject site. Therefore the auger program is designed to penetrate the historic strata and the hard clay layer to examine these deposits.

Once relatively intact midden deposits have been located, the second part of the program, delineation of the midden boundaries can be completed. Small 1x1 meter hand units are proposed in order to determine if a find is an isolated artifact, human bone, or archaeological feature and to determine the boundaries of any subsurface intact prehistoric resources. If an artifact is found through auger boring or if it is suspected that an archaeological feature may be present based on isolated feature materials found in an

auger boring (e.g. fired rock, bone fragment), then a one meter square hand excavated unit will be placed adjacent to the auger hole in order to verify that a midden deposit or feature exists. The consulting archaeologist suggests, for midden deposit to be deemed significant, the deposit should have artifacts and/or features (including human or animal bone) so that meaningful data can be gleaned from the cultural materials and their context. If midden deposits or features are exposed, excavations will cease at that point and the cultural materials will be left in place. The alignment of the 1x1 meter hand unit will be in a northerly orientation. The unit will be placed so that the auger hole is situated in the corner of the 1x1 meter unit; the unit is thereby treated as a continuation of the previous excavation. Units will be excavated in arbitrary ten centimeter levels and extend to a maximum depth of 150 cm. Excavation sidewalls will be photographed and the stratigraphy drawn. Soil samples will be taken per level of excavation from a consistently sampled corner (i.e. northwest) from each auger boring/unit for purposes of description, analysis and comparison with each other. Through this method, disturbed soils, intact soils, and midden soils will be differentiated. In addition, a pollen sample will be removed in 10cm increments from the back of each hand unit, if units are excavated, and saved for future special studies. Charcoal pieces likely to yield radiocarbon dates for useful target events will be mapped and collected from the units using appropriate techniques so as not to compromise the integrity of the sample. Scale drawings of unit's levels and stratigraphic sections will be prepared and all excavations will be photo-documented.

If bone fragments are uncovered during auger boring or hand excavation, a determination will be made as to whether the bone is human or other animal. In the event human remains are encountered, excavation will immediately stop and the human remains are protected from the elements by covering the cultural deposit with a permeable membrane and then soil and the spot is marked. The applicant proposes to follow all applicable State law regarding the discovery of human remains. The Plan states:

In accordance with the California Health and Safety Code, Section 7050.5, no further disturbance shall occur until the County Coroner has made the necessary findings as to origin. Further, pursuant to California Public Resources Code Section 5097.98(b) remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. ***The remains will be uncovered for inspection by the coroner.*** (emphasis added)

If the Orange County Coroner determines the remains to be Native American, the Native American Heritage Commission shall identify the 'most likely descendant.' The most likely descendant shall then make recommendations, and engage in consultations concerning the treatment of the remains as provided in Public Resources Code 5097.98. Since human remains have been discovered on Bolsa Chica Mesa previously, the Native American Heritage Commission has identified the following individuals as "Most Likely Descendants": David Belardes (Juañeno) and Anthony Morales (Gabrielino). In accordance with the Public Resource Code requirements, notification will also be provided to these Most Likely Descendants upon the discovery of human remains.

As stated above, the applicant proposes to uncover any human remains for inspection by the coroner. The Commission is concerned that this statement suggests that human burials may be completely or extensively uncovered or excavated in order for the coroner

to make a determination as to whether the bones represent a modern forensic case. On October 13, 2011, staff discussed this concern with the Tiffany Williams, Senior Deputy Coroner, Orange County Coroner's Office. Ms. Williams stated that while every case is different, the Coroner's Office also agrees with the goal of leaving burials in place, to the maximum extent possible in order to minimize impacts to prehistoric archaeological resources. If the find is a modern forensics case, the remains need to be left intact since the area would be considered a crime scene. She further stated that after the Coroner's Office has made an initial visit due to the discovery of human remains, in working with the project archaeologist, if it is established that the area is an archaeological site, that subsequent visits are not always necessary upon subsequent discoveries of human bones or bone fragments. However, all subsequent reports of discoveries are noted by the Coroner's Office and the reports should continue to be made. Therefore, the Commission imposes Special Condition 1 which requires that the proposed ARP be carried out in a manner that will limit the exposure of all bones or bone fragments and that they be exposed only to the extent necessary for the archaeologist and Coroner to make the necessary determination as to whether the bone is human and whether it represents a modern forensic case. Further, unless required by the County Coroner, subsequent human bones shall not be exposed unless exposure is necessary to determine whether they are human in origin and the extent of exposure shall be the minimum necessary to make the determination. Only as conditioned to minimize the excavation of Native American human remains is the proposed project consistent with Section 30244 of the Coastal Act.

Regarding human remains, the applicant further states, it is of paramount importance that the context of any discovered bone is examined by the various participants. Previous experience on this archaeological site has shown that isolated pieces of human bone may be found which have lost their original context and have been dislodged from their source by rodent activity or historic disturbances. The applicant suggests, in the event that isolated pieces of bone are found, and as determined by agreements between the landowner and Native American representatives, these will be documented, left in situ, and adjacent excavations will be conducted in order to locate the original source of the isolate. If the burial can be located, the isolate will be left in-situ and reburied. If the burial can not be located, the isolate will be removed and reburied at a later time with other isolates.

Following auger boring and hand unit excavation, all material collected will be water screened using 1/8-inch hardware cloth. Although wet screening is a labor-intensive process, when the excavation includes high clay content soils, such as those on the subject Goodell property, the wet screening process helps to break down the clumps of aggregated clay materials in an efficient and non-invasive manner, according to the project archaeologist. This step is critical to collecting as much information as possible from the extracted soils and helps provide for accurate integrity statements. However, it is also important to ensure that the wet screening does not adversely impact important biological resources which exist on the site. As discussed below, there is Southern tar plant on the subject site that must be protected. Adverse impacts to marine water quality could also result from the wet screening process if not done properly. Section IV.B.3 of this staff report below discusses potential marine resources impacts.

While the field work is in process, basic laboratory documentation and initial analyses will occur which will compliment the field observations. Laboratory work will include the sorting

of collected material. 'Collected materials' will consist of materials recovered from the auger coring and hand excavations necessary to determine the location and boundaries of intact cultural midden and do not include intact midden constituents, features, or human remains. Analysis will be conducted on historic as well as prehistoric material, including fire affected rock. Faunal remains, vertebrate specimens and shellfish remains will also be analyzed. The documentation of the location of structural remains, units, features (including human and animal bone) and artifacts will occur using multi-layer mapping derived from the GPS data collected during the 2010 site investigation. The original archaeological site mapping and site boundary delineation will be able to be redefined using the subsurface information that will be obtained as a result of the proposed ARP and the 2010 geophysical investigation as well as all other research and site analysis. The final step of the proposed project is the preparation of a technical report upon the completion of field work and all laboratory analysis. The applicant proposes to submit a draft report within three months of completion of the field working and matrix sorting. The applicant also proposes to distribute the final report to involved agencies (NAHC, SHPO and the Coastal Commission), to municipal entities, the designated archaeological information center at California State University, Fullerton, and affected Native American groups. Due to the sensitive nature of the report contents, the report will be held as 'confidential' and not made available to the general public, consistent with State Government Code, section 6254, subsection (r).

As proposed and as conditioned the subject ARP, with the exception of the proposed after-the-fact excavation of 16 soil profiles along the edge of the upper terrace, will be carried out in a manner that is most protective of archaeological/cultural resources and is therefore consistent with Section 30244 of the Coastal Act. Further, the proposed ARP as conditioned, with the exception of the proposed after-the-fact excavation of 16 soil profiles along the edge of the upper terrace, will not prejudice the preparation of the LCP for the area once it is annexed to the City of Huntington Beach.

2. Biological Resources

The Coastal Act requires the protection of biological resources and states:

Section 30240 of the Coastal Act states:

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

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

The Goodell site has been disturbed by historic subsurface bunker construction and above ground road, water tower and radar facilities and subsequent development and activities such as a commercial pole yard and unauthorized construction of dirt bike ramps. However, the site also contains biological resources. Though the site is dominated by

ruderal, non-native plant species, Southern tar plant, (*Centromadia parryi ssp. australis*) a California Native Plant Society List 1B.1 species (seriously endangered in California), is also present on the site. According to the applicant's biological consultant, LSA Associates, Inc., several general and focused biological surveys have been conducted on the subject site, including surveys by LSA Associates, Inc. in 2007, 2009 and 2010 (Exhibits 5 and 6). Those surveys were for the purpose of general biological assessment, protocol coastal California gnatcatcher surveys and vegetation mapping.

The most recent biological survey of the site was done by LSA on February 12, 2011. The purpose of the survey was to ascertain general site conditions and to determine whether the proposed auger locations would impact any significant biological resources. That survey found that while the Bolsa Chica Mesa area is known to be used by the burrowing owl, a California Species of Special Concern, no signs of burrowing owl use (e.g., tracks, pellets, feathers) were detected. Further, although wildlife activity was relatively high, the bird species and numbers present were those expected in an urban edge location; with the exception of the less common citing of a merlin (*Falco columbarius*) (Exhibit 5). To respond to questions regarding the presence of the California gnatcatcher, LSA's June 3, 2011 letter concludes that the gnatcatcher is not present on the subject site (Exhibit 6). LSA states that their biologists make very frequent visits to the project vicinity in connection with their work on the adjacent Parkside Estates and the Ridge sites and their on-going habitat restoration efforts at the Brightwater site. LSA further states that the last observation of a single gnatcatcher, which was in the area for a few months, was spring 2007. Therefore, based upon the above biological assessments, the only potential habitat impacts associated with the proposed archaeological testing would be to Southern tar plant.

Southern Tar plant

As stated above, though the subject site is dominated by ruderal, non-native plant species, Southern tar plant, (*Centromadia parryi ssp. australis*) a California Native Plant Society List 1B.1 species (seriously endangered in California), is also present on the site. The tar plant is scattered throughout the site as shown on the vegetation map in Exhibit 5 (page 3). On February 12, 2011 a focused survey by LSA was conducted for the purpose of documenting the presence of Southern tar plant in relation to the proposed auger locations. LSA noted that the annual Southern tar plant was not visible at the time of the winter survey but that the current tar plant locations were compared with recently mapped locations and concluded that none of the proposed auger locations overlapped tar plant areas. The June 3, 2011 LSA letter reviewed the tar plant locations based on the revised auger locations and concludes that the revised auger plan avoids tar plant impacts if the proposed minimization measures recommended in the March 3, 2011 letter are implemented, if the archaeological testing is done outside the Southern tar plant spring/summer growing season. LSA further recommends, among other things, that if the proposed testing is done during the tar plant annual growing season that the auger locations be marked in the field inspected by a biologist (Exhibit 6). However, the relocation of individual growing plants is not recommended because disruption of the root system during the annual growth period could lead to plant failure.

As conditioned by Special Condition 3 the applicant is required to abide by the biologist's recommendations of the above two letters and to submit an equipment staging and work

plan that avoids areas of Southern tar plant and to require that the borings and excavations be backfilled so that the soil does not prevent or hinder tar plant seed germination. Further, as conditioned the proposed project is consistent with Section 30240(b) of the Coastal Act requiring protection of biological resources.

Raptor Nesting Habitat

Adjacent to the subject site, on the southern boundary, is a grove of Eucalyptus trees. The grove includes other non-native trees such as palm and pine trees. However, these trees are used by raptors for nesting, roosting, and as a base from which to forage. The Eucalyptus grove in the south as well as a northern grove, have been designated ESHA by both the Department of Fish and Game and the Coastal Commission because of their use by up to 17 species of raptors.

The Coastal Act requires that ESHA habitat be protected against any significant disruption of habitat values, including noise impacts. Accordingly, the Commission conditions this permit to protect any nesting raptors from construction noise, including mechanical augering. Special Condition 4 prohibits mechanical boring within 500 feet of an occupied nest during the nesting season (February 15 – August 31). The applicant is anxious to implement the proposed archaeological testing in order to have the field work completed before the winter rains. Therefore, the proposed field work will most likely be completed well before raptor nesting season begins in mid February. However, the applicant is also required to survey any trees of the Eucalyptus grove that are within 500 ft. of the proposed work area to determine if raptor nesting is occurring prior to commencement of any mechanical work. As conditioned the proposed project is consistent with Section 30240(a) of the Coastal Act.

3. Marine Resources

Coastal Act Sections 30230 and 30231 require the protection of marine resources and state:

Section 30230

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

Section 30231

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.

The subject site is near the Bolsa Chica Ecological Preserve, a coastal wetland that provides habitat for threatened and endangered species. The proposed project includes the excavation of soil through mechanical auger boring and 1x1 meter hand excavated units. Although the soil will be backfilled upon completion of the field work, during field work there is the potential for the soil to adversely impact off-site marine resources if the site is not properly contained.

As conditioned by Special Condition 5 the proposed project will use standard construction best management practices (BMPs) and good housekeeping measures (GHMs) to prevent erosion and run-off of excavated soil into the adjacent restored Bolsa Chica Ecologic Preserve. The project, as conditioned, is therefore consistent with the marine resources protection policies of the Coastal Act.

4. California Environmental Quality Act

Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, 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.

In this case, the County of Orange is the lead agency and the Commission is the responsible agency for the purposes of CEQA. The County of Orange issued a CEQA exemption for the proposed project. There are no other feasible alternatives or mitigation measures available which will lessen any significant adverse archaeological, biological, or marine resource impact the activity would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with CEQA and the policies of the Coastal Act.

C. DENIAL FINDINGS AND DECLARATIONS

1. Unpermitted Development

Unpermitted development has occurred on the subject site in the form of excavation by hand of sixteen 50cm wide by 101 cmbs (centimeters below surface) average depth soil profiles along the edge of the upper terrace of the subject site. The work was done during the spring of 2010. The applicant did not request authorization of the unpermitted activity, nor did exemption 5-10-035-X (Goodell), which was issued by the Executive Director on April 16, 2010 for a surface survey and geophysical investigation of the site, authorize the unpermitted activity. The exemption stated "Other than placement of stakes to mark grids, no ground disturbing, or sub-surface excavation/earth movement will occur." (Exhibit 4) No other approvals were granted for the unpermitted activity.

According to the archaeologist, the purpose of the unpermitted soil profile excavation was to penetrate the accumulated fill material in order to expose the “intact soils” that had been detected by the approved surface investigation and thus determine whether the “intact soils” were in fact “intact midden deposits”. SRS further states concerning the soil profiles:

The soils exposures were excavated along the highly disturbed bluff edge of the upper terrace. This terrace edge had been created by bulldozers during construction of a WWII bunker located directly to the east. The damage was so great that parts of the edge are today still held in place by a log retaining wall. The profiles essentially consisted of 50 cm wide vertical exposures nearly equivalent to a 16” (40.64 cm) auger hole on either side of the retaining wall. The intent was to remove the slough so that underlying soils could be examined and this information used to establish presence or absence of midden deposits. The profiles were excavated from the toe of the slope back into the bluff edge until soils were found that may indicate that intact midden had been reached. When these soils were located then the profile was cleaned vertically so that the precise boundary between the midden and the slough could be determined. It was not the intent of the program to remove midden soils.

The soil exposures were recorded by photographs and stratigraphic drawings. This documentation for each of the sixteen profiles has been reviewed by both Gabrielino and Juaneno representatives and the CCC-approved Peer Reviewers. All parties have agreed that these exposures provided information which was key and critical to their ability to make an informed decision about the scope of a boundary definition plan since the profiles provided direct evidence of presence and absence of midden deposits which was otherwise not available. All parties agreed that the information gain far outweighed the minimal slope disturbance. Materials were not screened because the bulk of the removed soils were clearly fill material or natural soils. Once the suspected midden boundary is staked in the field using these profiles as a guide, then the profiles will be refilled and the land returned to its former condition.

The excavation of the soil profiles was carried out without the presence of Native American monitors with ancestral ties to the area. Further, the profiles were not backfilled upon completion of the work. The Commission cannot approve this work ATF as it was not done in a manner most protective of the archaeological/cultural resources since Native American monitors were not present and therefore not allowed to verify the findings or make comments on the methods (including whether the material should be screened for human bone or animal fragments). Further, the material, which was excavated over a year ago, was not backfilled. The impacts of this activity haven’t been fully examined at this time. Therefore, the Commission is denying the ATF development until the Enforcement Division can fully assess the site for impacts to on-site Southern tar plant and to other on- and off-site habitat, as well as sedimentation affecting the biological productivity and water quality of nearby coastal waters. Southern tar plant is a California Native Plant Society “1b.1” species (seriously endangered in California) and must be protected from adverse impacts due to the stockpiling of soil since it could cover the seed bank located in the topsoil, preventing or hindering seed germination if the soil layer is too thick. According to the applicant, the purpose of the soil profiles was to expose intact midden. An assessment

as to whether impacts from erosion or vandalism have occurred as a result of not backfilling the unpermitted profiles has not yet occurred. The Commission notes that the project site has been subject to continued and slightly increasing use of a portion of the site for unauthorized dirt bike ramp creation and dirt bike riding (Exhibit 5). Given this use of the site, vandalism of the exposed intact midden deposits could have also occurred.

Commission staff is currently reviewing options for further action necessary to resolve this unpermitted development.

2. After-the-fact denial of hand excavation of sixteen soil profiles

Section 30244 of the Coastal Act states:

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

The proposed after-the-fact (ATF) development is inconsistent with the above archaeological resources protection policy of the Coastal Act because the soil profiles were excavated without the presence of Native American monitors especially when sites, such as the subject site, are known to have a high likelihood that archaeological/cultural resources are on a project site. The Commission, as well as the local government, has consistently required the presence of Native American monitors when subsurface investigation or construction is approved in areas that are known or suspected to contain archaeological/cultural resources. The Native American community in general, as well as the tribal group with ancestral ties to a development site, and the Native American Heritage Commission are concerned that Native American resources, especially human remains, if they are exposed, be treated with appropriate dignity and respect. Native American monitors also sometimes request that excavated soil be screened for the presence of human bone and other artifacts.

In this case, the subject ATF development that occurred on the subject site is the excavation by hand of sixteen 50cm wide by 101 cmbs (centimeters below surface) average depth soil profiles along the edge of the upper terrace of the subject site. The work occurred over a year ago without the presence and input of Native American monitors in the field. Further, the soils were not screened nor were the profiles backfilled. In the proposed revised ARP, the applicant states that the soil profiles were excavated for the purpose of penetrating the accumulated fill material in order to expose what had been determined through the approved geophysical investigation to be "intact soils" to determine whether the "intact soils" were "intact midden deposits". SRS further states that the profiles were excavated, by hand, from the toe of the highly disturbed bluff edge of the upper terrace that had been created during the construction of a World War II bunker, back into the bluff edge. The purpose of the excavation was not to remove any intact midden deposits but to determine the precise boundary between the midden and the slough or fill material. The soil exposures were each recorded by photographs and stratigraphic drawings and the documentation was reviewed by the Native American MLDs designated by NAHC and the three archaeologist peer reviewers after the applicant excavated the

profiles. The profiles were also examined in the field by the designated Native American MLDs. According to SRS, all parties have agreed that the exposures provided key information that was critical to their ability to make an informed decision about the scope of the boundary definition plan since the profiles provided direct evidence of the presence and absence of midden deposits which was otherwise not available.

Despite the appropriate goals of the ATF development the Commission cannot find that the work is consistent with Section 30244 of the Coastal Act because it was not carried out in the presence of Native American monitors, affording them the opportunity to comment on the work as it was being done and the opportunity to request that the soils be screened for cultural material. Further, by not backfilling the profiles, midden deposits were left exposed which could have been subject to vandalism during the more than one year period since they were exposed. SRS states that the soils were not screened because they were fill material that originally came from other portions of the site during previous on-site historic development and not midden soils. However, the Commission notes that on the Parkside Estates site when non-human bones were found in fill material, Native American representatives on that site requested that the bones be examined to determine the type of animal bone.

Therefore, the proposed AFT approval of the hand excavation of sixteen 50 cm wide by 101 cmbs (centimeters below surface) average depth soil profiles are not consistent with Section 30244 of the Coastal Act and must be denied.

Further, Coastal Act Sections 30230 and 30231 require the protection of marine resources and state:

Section 30230

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

Section 30231

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.

As stated above, the soil profiles were excavated more than a year ago and were not backfilled. In addition to potential vandalism resulting from the exposure of intact midden soils, the fill material excavated from the 16 profiles could have cause adverse marine water quality impacts. Commission staff is currently reviewing whether or not the unpermitted development caused water quality impacts to the nearby coastal waters. It is evaluating its options for further action necessary to resolve this unpermitted development. The Commission cannot find the proposed soil profiles consistent with Sections 30230 and 30231 the marine resource protection policies of the Coastal Act and therefore must deny this portion of the proposed project.

3. California Environmental Quality Act

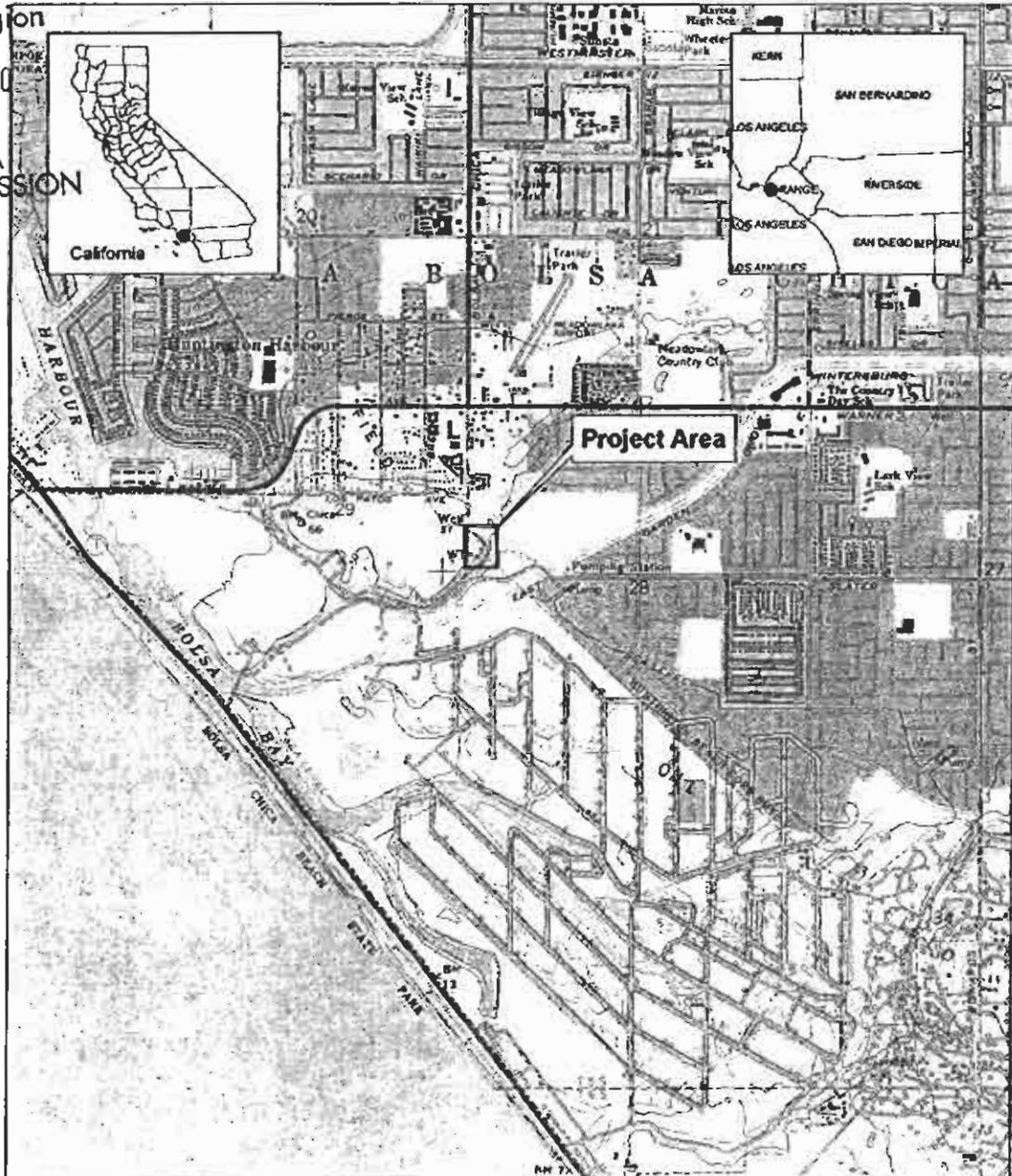
Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality 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.

In this case, the County of Orange is the lead agency and the Commission is the responsible agency for the purposes of CEQA. The County of Orange issued a CEQA exemption. While the County found that the development, could be found consistent with CEQA, the Commission, pursuant to its certified regulatory program under CEQA—the Coastal Act—has found that the proposed ATF development would have adverse environmental impacts. As described above, the proposed ATF development of the hand excavation of 16 50 cm wide by 101 cms average depth soil profiles which resulted in the exposure of “intact midden” without the presence of Native American monitors and further, was not backfilled, would have adverse environmental impacts. Therefore, the propose ATF portion of the proposed project is not consistent with CEQA or the policies of the Coastal Act because there are feasible alternatives, which would lessen significant adverse impacts, which the activity would have on the environment. Therefore, the AFT excavation of 16 soil profiles without the presence of Native American monitors and without backfilling the profiles upon completion of the work must be denied.

RECEIVED
South Coast Region

NOV 1 - 2010

CALIFORNIA
COASTAL COMMISSION



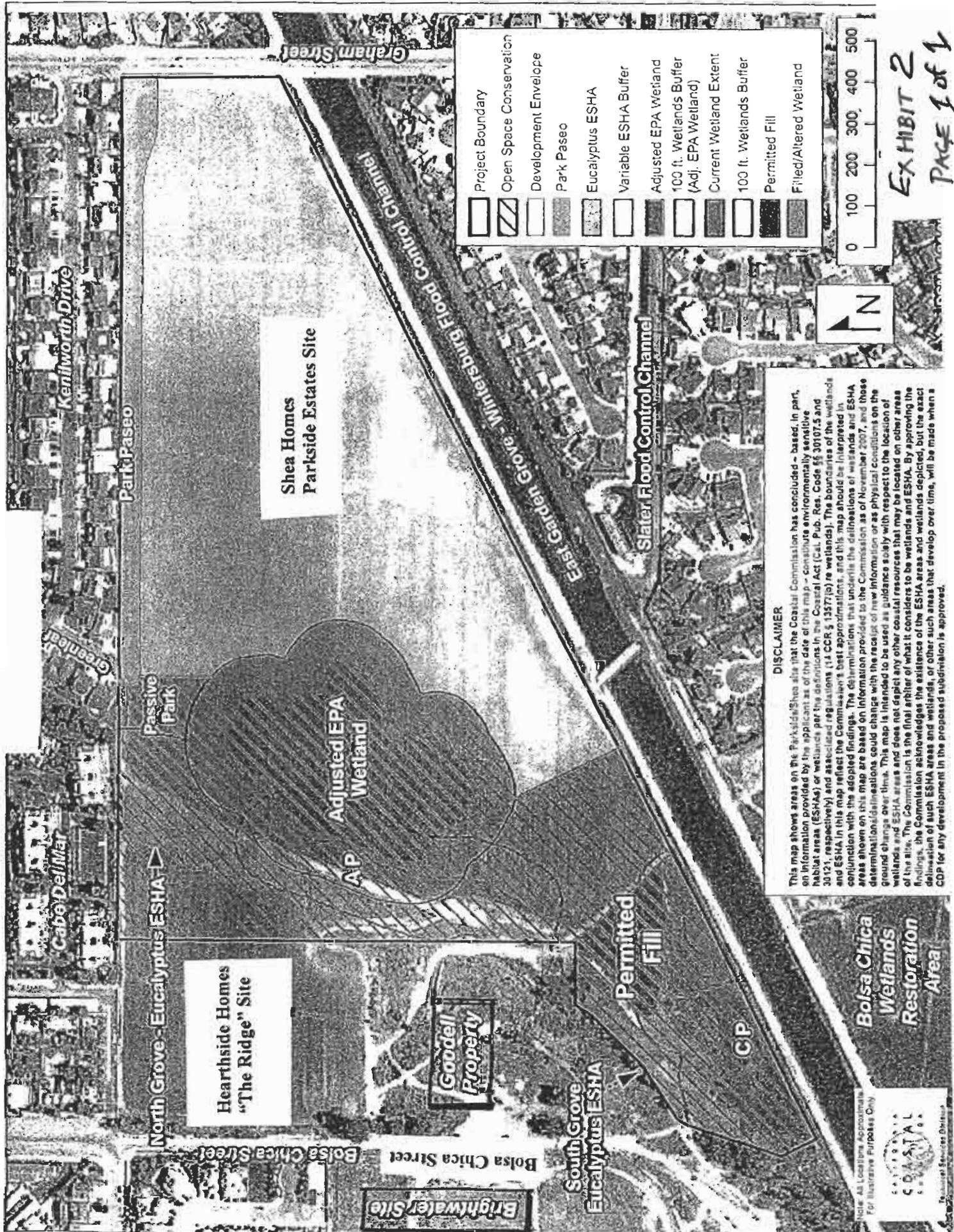
<p>0 250 500 Meters</p>	<p>N</p> <p>1:24,000</p>	Project Location Map	
<p>0 1000 2000 Feet</p>		Goodell Property	
<p>USGS 7.5' Quadrangle Seal Beach, CA 1985 (Photorevised 1951) Landgrant: La Brea Chiba</p>		September 2007	Figure 1

COASTAL COMMISSION

EXHIBIT # 1

PAGE 1 OF 1

5-10-258(Goodell)



Shea Homes
Parkside Estates Site

Hearthside Homes
"The Ridge" Site

Goddell
Property

Brightwater Site

DISCLAIMER

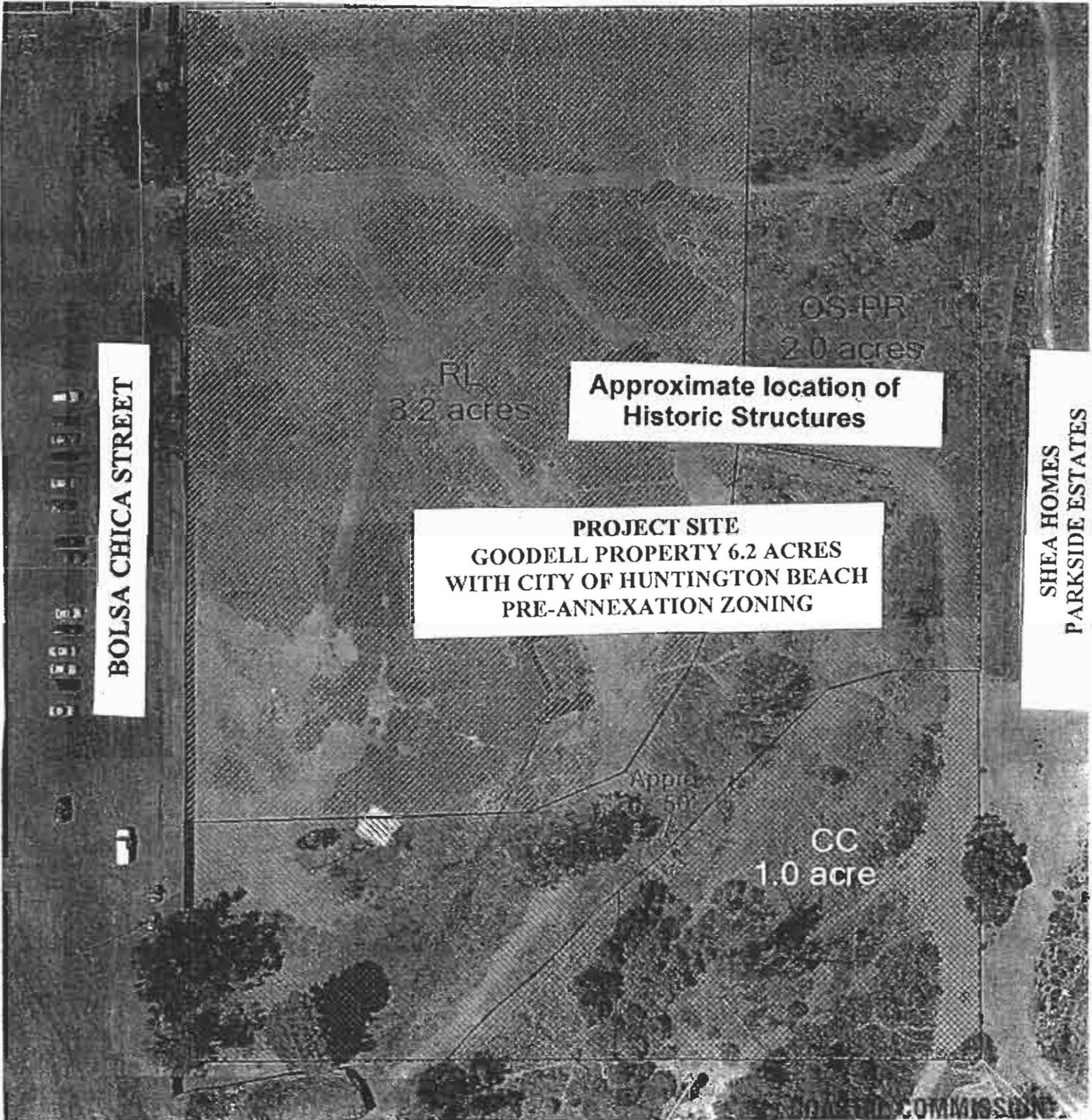
This map shows areas on the Parkside/Shea site that the Coastal Commission has concluded - based, in part, on information provided by the applicant as of the date of this map - constitute environmentally sensitive habitat areas (ESHAs) or wetlands per the definitions in the Coastal Act (Cal. Pub. Res. Code §§ 30107.5 and 30121, respectively) and associated regulations (15 CCR § 13077) (a) re wetlands). The boundaries of the wetlands and ESHA in this map reflect the Commission's best approximations, and this map should be interpreted in conjunction with the adopted findings. The determinations that underlie the delineations of wetlands and ESHA areas shown on this map are based on information provided to the Commission as of November 2007, and those determinations/delineations could change with the receipt of new information or as physical conditions on the ground change over time. This map is intended to be used as guidance solely with respect to the location of wetlands and ESHA areas and does not depict any other coastal resources that may be located on other areas of the site. The Commission is the final arbiter of what it considers to be wetlands and ESHA. By approving the findings, the Commission acknowledges the existence of the ESHA areas and wetlands depicted, but the exact delineation of such ESHA areas and wetlands, or other such areas that develop over time, will be made when a CDP for any development in the proposed subdivision is approved.

Bolsa Chica
Wetlands
Restoration
Area



EXHIBIT 2
PAGE 1 of 1

**HEARTHSIDE HOMES
"THE RIDGE" SITE**



CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



EXEMPTION LETTER

Date: April 16, 2010

Reference Number: 5-10-035-X

Applicant Name: Donald Goodell

Project Location: Near and Southeast of the intersection of Bolsa Chica Street and Los Patos Avenue, Orange County.
APN 110-014-20

Project Description: Implementation of a geophysical program intended to provide data for archaeological research. The program includes use of ground penetrating radar (GPR) and conductivity instruments. The results of the data collection are expected to provide two and three dimensional subsurface images of historic and prehistoric features that may be present on the site. In addition, a pedestrian surface survey will be conducted. The information gathered through the above described methods will be used to generate archaeological maps of the subject site. The maps generated are proposed to display multi-layer representations of the geophysical data to demonstrate any corresponding anomalies identified by the various instruments. Also included in the maps will be site boundaries, location of surface artifacts and other relevant GPS data collected through the proposed geophysical program and surface review. Other than placement of stakes to mark grids, no ground disturbing, or sub-surface excavation/earth movement will occur.

This is to certify that this location and/or proposed project has been reviewed by the staff of the Coastal Commission. A coastal development permit is not necessary for the reasons checked below:

___ The site is not located within the coastal zone as established by the California Coastal Act of 1976, as amended.

___ The proposed development is included in **Categorical Exclusion No. E-82-1** adopted by the California Coastal Commission.

___ The proposed development is judged to be repair or maintenance activity not resulting in an addition to or enlargement or expansion of the object of such activities and not involving any risk of substantial adverse environmental impact (Section 30610(d) of Coastal Act).

___ The proposed development is an improvement to an existing single family residence (Section 30610(a) of the Coastal Act) and not located in a

COASTAL COMMISSION

EXHIBIT # 4
PAGE 1 OF 2

between the sea and the first public road or within 300 feet of the inland extent of any beach (whichever is greater) (Section 13250(b)(4) of 14 Cal. Admin. Code).

- ___ The proposed development is an improvement to an existing single family residence and is located in the area between the sea and the first public road or within 300 feet of the inland extent of any beach (whichever is greater) but is not a) an increase of 10% or more of internal floor area, b) an increase in height over 10%, or c) a significant non-attached structure (Sections 30610(a) of Coastal Act and Section 13250(b)(4) of Administrative Regulations).
- ___ The proposed development is an interior modification to an existing use with no change in the density or intensity of use (Section 30106 of Coastal Act).
- ___ The proposed development involves the installation, testing and placement in service of a necessary utility connection between an existing service facility and development approved in accordance with coastal development permit requirements, pursuant to Coastal Act Section 30610(f).
- ___ The proposed development is an improvement to a structure other than a single family residence or public works facility and is not subject to a permit requirement (Section 13253 of Administrative Regulations).
- ___ The proposed development is the rebuilding of a structure, other than a public works facility, destroyed by natural disaster. The replacement conforms to all of the requirements of Coastal Act Section 30610(g).
- X **Other:** The proposed development does not constitute development as defined in Section 30106 of the Coastal Act.

Please be advised that only the project described above is exempt from the permit requirements of the Coastal Act. Any change in the project may cause it to lose its exempt status. This certification is based on information provided by the recipient of this letter. If, at a later date, this information is found to be incorrect or incomplete, this letter will become invalid, and any development occurring at that time must cease until a coastal development permit is obtained.

Sincerely,

PETER M. DOUGLAS
Executive Director

Meg Vaughn
Coastal Program Analyst

COASTAL COMMISSION

EXHIBIT # 4
PAGE 2 OF 2

MEMORANDUM

DATE: March 3, 2011

TO: Douglas Goodell

FROM: Ingri Quon, Senior Biologist

SUBJECT: Results of General Biological Surveys and Minimization Recommendations in Preparation for the Auger Program – Goodell Property, City of Huntington Beach, California

This memo transmits the results of a supplemental biological survey conducted by LSA Associates, Inc. (LSA) on the Goodell property and concludes with measures to minimize impacts to biological resources (Figure 1; figure attached). The purpose of the survey was to describe the existing site conditions, particularly with regard to the proposed auger locations in the northern and western sections of the property. Many general and focused surveys have been conducted on the property. Survey reports have included a general biological resources assessment, protocol coastal California gnatcatcher (*Poliopitila californica californica*) surveys following the United States Fish and Wildlife Service protocol, vegetation mapping; and, most recently, a supplemental botanical survey was conducted in the fall of 2010 to determine the on-site status of the southern tarplant (*Centromadia parryi* ssp. *australis*), a California Native Plant Society List 1B.1 species.

METHODS

On the afternoon of February 12, 2011, Senior Biologist Ingri Quon conducted a general biological survey of the subject property to determine the current site conditions with special consideration of the areas mapped for the auger locations (see Figure 1). During the pedestrian survey, Ms. Quon visually surveyed the entire property noting bird species and dominant plants, as well as the overall site conditions with awareness to changes in disturbances or vegetation communities.

Prior to the survey, the biologist was aware that the project area is in proximity to an historic California gnatcatcher territory, burrowing owl (*Athene cunicularia*) wintering habitat, and that the mature trees and palms on site are sometimes used by perching raptors. In addition, the southern tarplant population areas, located and quantified in October 2010, were checked and mapped in relation to the proposed auger locations (see Figure 1).

RESULTS

The biological conditions on site were very similar to the previously documented site conditions (SWCA Environmental Consultants [SWCA] 2007; LSA 2007, 2009, 2010); however, unauthorized dirt bike ramps have continued to expand slightly, both in overall area and height.

COASTAL COMMISSION

EXHIBIT # 5
PAGE 1 OF 3

With regard to vegetation, the proposed auger locations are all within disturbed habitat currently dominated by ruderal, nonnative plant species. However, the annual southern tarplant was not visible at the time of this winter survey. When comparing the recently mapped southern tarplant population areas and the proposed auger locations, none of the tarplant areas overlap the proposed auger locations, but some are nearby (Figure 1). It is possible that the current tarplant seed bank is within the topsoil that might be affected at some of the auger locations, specifically the southern auger grouping (Figure 1: Area B).

Wildlife activity was relatively high during the field survey, with bird species and numbers typical of those expected in an urban edge location; a merlin (*Falco columbarius*), a less common, but regularly occurring species in the area was observed perched in a eucalyptus near the central part of the project area. California ground squirrel (*Spermophilus beecheyi*) burrows were common throughout the project area, and numerous squirrels were seen on site. Ground squirrels are suitable prey for some raptors, coyotes (*Canis latrans*), and other mammals, and their burrows can be modified and used by burrowing owl. Because burrowing owls are a California Species of Special Concern and are known from the area, all detected burrows were investigated for burrowing owl use; however, no burrowing owl sign (e.g., tracks, pellets, feathers) was detected.

Overall, the proposed auger locations are in disturbed habitat areas, and the property is regularly visited by recreationalists (e.g., pedestrians, dirt bikers). Auguring at the proposed locations is not expected to substantially impact the project site, particularly if the southern tarplant seed bank can be protected from this temporary disturbance.

RECOMMENDED MINIMIZATION MEASURES

To reduce and minimize potential impacts to southern tarplant, it is recommended that topsoil impacts be minimized. Southern tarplant is an annual species; therefore, the population is dormant as seed in the topsoil during most of the year. The following measures are recommended to minimize impacts to the seed bank:

- Prior to ground disturbance, and in the auger locations within 10 feet (ft) of the previously located southern tarplant (see Figure 1), plywood or plastic tarps shall be laid down on the ground to temporarily store the auger spoils. The ground (topsoil) should not be cleared or disturbed prior to laying down the plywood or tarp.
- When the sampling is complete, the hole should be filled with the collected dirt (spoils) stored on the plywood or tarp. The plywood or tarp can be reused at the next auger location.
- Extra dirt (spoils) should be thinly (no more than 0.25 inch thick) spread over the ground since this may cover the seed bank in the topsoil, and thicker fill may prevent or hinder germination.

Please do not hesitate to call Art Homrighausen or me if there are any questions about this memo or if additional information is required.

Attachments: Figure 1: Vegetation and Auger Locations

COASTAL COMMISSION

EXHIBIT # 5
PAGE 2 OF 3



FIGURE 1

LSA

LEGEND

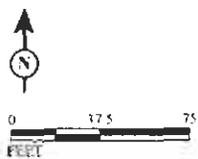
- Site Boundary
- Revised Auger Program from SRS
- Tarplant Populations (10/10)
- Tarplant Populations (6/09)

Vegetation/Habitat/Communities

- AG - Agriculture
- CS - Chenopod Scrub
- CUT - Previously Cut Tree
- ELM - Chinese Elm

- EUC - Eucalyptus
- EUC-r - Eucalyptus (Removed)
- FIG - Fig
- MF - Mullein
- MYP - Myoporum
- OF - Old Foundation

- OLIVE - Olive
- P - Palm
- PINE - Pine
- PrP - Peruvian Pepper
- R - Ruderal



SOURCE: EagleAerial (4/08); LSA (Vegetation: 1/2007; Tarplant Survey: 6/2009, 10/2010); SRS Corp. (2/2011)

I:\DGL530\GIS\Veg_Auger.mxd (2/16/2011)

Goodell Property
Vegetation and Proposed Auger Locations

MEMORANDUM

DATE: June 3, 2011
 TO: Douglas Goodell
 FROM: Art Homrighausen, Principal
 SUBJECT: Supplement to Results of General Biological Surveys and Minimization Recommendations in Preparation for the Auger Program – Goodell Property, City of Huntington Beach, California

This memorandum supplements the memorandum of March 3, 2011, regarding biological surveys conducted by LSA Associates, Inc. (LSA) on the Goodell property. The purpose is to respond to requests for clarification or additional information from the California Coastal Commission (CCC) Staff (letter dated April 6, 2011), and this memorandum includes additional measures to minimize impacts to biological resources.

COASTAL CALIFORNIA GNATCATCHERS

LSA biologists continue to make very frequent visits to the project vicinity, in connection with LSA’s work on the subject parcel, the Parkside Estates project, the Ridge project site, monitoring of the hydrology and vegetation on the so-called “County Parcel,” and monitoring the development of the habitat restoration on the Brightwater Property. LSA is confident that any presence of coastal California gnatcatcher throughout these areas would have been detected. The last observation of a single California gnatcatcher, which was in the area for a few months, was the spring of 2007. Protocol surveys were conducted in 2009. Based on all of these observations, LSA concludes that this species is not currently present.

RELATIONSHIP OF GROUND-DISTURBING ARCHAEOLOGICAL ACTIVITIES TO VEGETATION

All of the proposed ground-disturbing activities are in areas dominated by non-native, ruderal vegetation. The revised sampling grid actually retracts two of the sampling locations from areas where southern tarplant has been mapped. One new auger location nearly coincided with one small tarplant location that has been previously mapped; this auger location was revised to avoid impacts. Figure 1 shows the revised auger locations in relation to the tarplant locations and other vegetation on the site. If the sampling is done outside the spring/summer growing season for southern tarplant, the minimization measures recommended in LSA’s memorandum of March 3, 2011, are still appropriate. If the archaeological sampling is done during the annual growing season (May through September), LSA recommends that the sampling locations be marked in the field and inspected by a biologist to determine if any actively growing or flowering southern tarplant would be affected. If southern tarplant is visible nearby, it should be protected with silt fencing or other suitable delineating barrier.

COASTAL COMMISSION

If southern tarplant occurs within the area that would be directly affected by the sampling (not expected), the sampling location(s) should be adjusted, through consultation between the archaeologist and biologist, to avoid the direct impact, and the tarplant should be protected as described above. Relocation of individual growing plants of this species is not recommended, because it is an annual plant, and disruption of its root system during its annual growth period would likely lead to plant failure.

PREVIOUS TREE REMOVALS

The unauthorized tree removals of 2005 occurred near the southern edge of the mesa, well outside of the currently proposed sampling grid. Therefore, the proposed sampling grid would not have any direct effect on the former tree locations, even if the trees were still there. Similarly, given the ruderal nature of the vegetation on the mesa, and the relatively short-term effects of the proposed sampling program, there would be no substantial effect on habitat that might be used for foraging by birds that may have occupied those trees.

An informal inspection of the trees, which were planted as mitigation for the unauthorized tree removals, was performed by LSA in the fall of 2010, during other surveys. The trees were alive and exhibiting evidence of growth at that time.

COASTAL COMMISSION

EXHIBIT # 6
PAGE 2 OF 2

April 13, 2011; May 3, 2011

PHONECONS

FROM: David Belardes, Chief, Chairman and MLD Juaneno Band of Mission Indians
Joyce Perry, Cultural Resource Director, Juaneno Band of Mission Indians

TO: Dr. Nancy Anastasia Wiley, Principal Investigator, SRS, Inc.

RE: CCC Letter dated April 6, 2011 regarding Archaeological Constraint Study: Goodell Property

The Juaneno Band of Mission Indians have two issues regarding the recent California Coastal Commission review and recommendations regarding the SRS proposed Constraint Study for the Goodell Parcel:

1) The CCC might be out of their jurisdiction in regards to what archaeology should occur on the Goodell Parcel. It is our understanding that that's what the three peer reviewers are there for; we are confused as to why peer-reviewed test plans are being questioned and changed by Coastal Commission staff. We are now being asked to review another program, when in fact the Juaneno were quite satisfied with the original hand excavation program.

2) In this regard, the Juaneno Band has a serious problem with the use of a mechanical auger on an extension of a site known to contain burials. We have monitored many auger programs and know quite well that even a hollow auger destroys artifacts as it bores a hole; such an implement would be devastating to a burial. For this reason, we are in agreement with the Gabrielino representatives that hand excavated units should be used to define site boundaries and in any areas thought to be sensitive based on earlier studies on this parcel.

3) And now we are being asked to even increase the number of auger holes to a 5m grid pattern which is contradictive to preservation efforts. We viewed the small size of a 5m grid in the field on this site with SRS and all determined it to be unmanageable. Clearly whoever is advising the CCC and Mr. Morales is an archaeologist that has not worked extensively in the field.

4) In conclusion, it is our hopes that this can be resolved quickly and start the process. Quite frankly this simple process has had 6 previous recommendations and now a 7th which we approve; it is time to move on.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 1 OF 4

May 6, 2011

PHONECON

FROM: Anthony Morales, Chief, Chairman and MLD Gabrieleno Tongva Mission Indians
Adrian Morales, Tribal Representative, Gabrieleno Tongva Mission Indians

TO: Dr. Nancy Anastasia Wiley, Principal Investigator, SRS, Inc.

RE: CCC Letter dated April 6, 2011 regarding Archaeological Constraint Study: Goodell Property

The Gabrieleno Tongva have reviewed the new auger program outlined by SRS Corp and find it to be in compliance with the changes requested by the Coastal Commission. We believe that the five meter auger pattern provides thorough coverage of the site area. We also think that replacing auger holes with hand units along Bolsa Chica Road and on the possible midden boundary addresses our previous concerns.

Because we do not know where other areas of concern may be until the auger program is in process, we reserve the right at that time of replacing other auger holes with hand units. Also, once the vegetation is removed from the mesa, we may find other areas which need auger testing.

With those stipulations, we approve the five meter auger pattern and hand unit excavations on the Goodell Property.

COASTAL COMMISSION

EXHIBIT #

7

PAGE

2

OF

4

From: "Dave Singleton" <ds_nahc@pacbell.net>
Subject: Re: Goodell Property Constraint Study, Huntington Beach, CA
Date: Fri, May 20, 2011 4:11 pm
To: wileycoyote@srscorp.net
Cc: "Ed Mountford" <emountford@hearthside-homes.com>,"Teresa Henry"
<thenry@coastal.ca.gov>,"Joyce Perry"
<kaamalam@gmail.com>,GTTribalcouncil@aol.com

May 20, 2011

Dear Nancy:

The NAHC has reviewed the Goodell Property Field Plan for a Constraints Analysis, including the May 2001 chapter for "Predictive Modeling."

The NAHC approves the plan with the changes requested by the California Coastal Commission. The Plan, we note, includes approvals and comments from both the Juaneno and Gabrielino Tongva tribal groups involved as Native American Monitors and Most Likely Descendants (MLDs) with the project.

Dave Singleton
Program Analyst
California Native American Heritage Commission
915 Capitol Mall, Room 364
Sacramento, CA 95814
(916) 653-6251 (916) 653-6251

COASTAL COMMISSION

EXHIBIT # 7
PAGE 3 OF 4

May 6, 2011

Dr. Nancy Anastasia Wiley
Scientific Resource Surveys, Inc.
2324 N. Batavia Street, Suite 109
Orange, CA 92865

Re: Peer Review of Proposed Archaeological Constraints Analysis on the Goodell Parcel,
Bolsa Chica Area, Orange County

Dear Dr. Wiley:

We, the undersigned members of the Bolsa Chica Peer Review Committee, have reviewed a document entitled 'Predictive Modeling'; a new chapter for the May 2011 version of "Cultural Resource Constraint Analysis on Archaeological Site CA-ORA-144, 'the Water Tower Site' [A Part of CA-ORA-83 "the Cogged Stone Site"] the Goodell Parcel", prepared by Scientific Resource Surveys, Inc. (SRS). The document consists of a plan to determine whether there are subsurface intact prehistoric deposits on the property and, if so, to help define their distribution and boundaries. In addition, the plan will also verify if geophysical anomalies correspond to the foundations of structures from the historic period.

The plan to use bucket augers at a 5 meter spacing, supplemented with 1 by 1 meter hand excavated units, where appropriate, will address the concerns of the Most Likely Descendant Anthony Morales while maximizing information about the distribution of subsurface cultural material and minimizing disturbance of any human remains and intact cultural deposits that may be encountered.

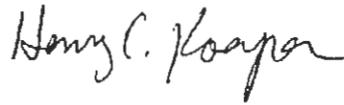
Sincerely,



Roger D. Mason, Ph.D., RPA
Archaeologist



Paul G. Chace, Ph.D., RPA
Archaeologist



Henry C. Koerper, Ph.D.
Archaeologist

COASTAL COMMISSION

EXHIBIT # 7
PAGE 4 OF 4



California Cultural Resource Preservation Alliance, Inc.

P.O. Box 54132
Irvine, CA 92619-4132

An alliance of American Indian and scientific communities working for
the preservation of archaeological sites and other cultural resources.

RECEIVED
South Coast Region

August 30, 2011

SEP 01 2011

California Coastal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

CALIFORNIA
COASTAL COMMISSION

Re: Huntington Beach Local Coastal Program Amendment No. 3-10 The Ridge and Coastal Development Permit application No. 5-10-258 the Goodell property.

Honorable Commissioners:

Both Coastal permit applications affect CA-ORA-83 the 9,000 year old village complex and burial grounds also known as the cogged stone site. This site was listed as eligible on the National Register of Historic Places on July 17, 2009, and it has been designated by the Native American Heritage Commission as a sacred site.

We are writing to request that you adopt the following recommendations for these permits regarding the treatment of cultural resources to prevent a repeat of the tragic destruction of the burials and archaeological features that occurred at the Brightwater portion of the cogged stone site: (1) Assumptions that the properties are too disturbed to contain intact cultural resources should be questioned based on the discovery of intact cultural features and artifacts at the Brightwater and Sandover portions of the site that were protected from plowing and historic construction by a hard clay layer.

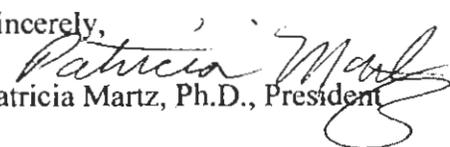
(2) Archaeological testing methods should be designed to locate, but not excavate or remove burials and intact archaeological features. The burials and cultural features should be documented without further disturbance, the boundaries be mapped, and the burials and features covered, protected, and preserved in place.

(3) An archaeological report documenting the 30 years of previous investigations at the Brightwater and Sandover portions of the site that meets the State of California Office of Historic Preservation Planning Bulletin #4 "Archaeological Resource Management Reports (ARMR): Recommended Contents and Format" should be prepared and disseminated to the Coastal Commission and the South Central Coastal Information Center at Cal State Fullerton, prior to any further archaeological investigations.

(4) Archaeological reports meeting ARMR should be prepared for any investigations at the Ridge and Goodell properties.

(5) A curation plan that designates a repository for any recovered artifacts not associated with preserved burials and features and all site notes, photos, and records should be a requirement (See State of California guidelines for the Curation of Archaeological Collections, State Historical Resources Commission 1993).

Sincerely,


Patricia Martz, Ph.D., President

COASTAL COMMISSION

EXHIBIT # 8
PAGE 1 OF 1

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
e-mail: ds_nahc@pacbell.net



RECEIVED
South Coast Region

October 5, 2011

OCT 10 2011

Ms. Teresa Henry, District Manager
California Coastal Commission
South Coast District
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

CALIFORNIA
COASTAL COMMISSION

Dear Teresa:

Enclosed are the NAHC "Guidelines for Native American Monitors/Consultants" that we tried to send to you by facsimile October 4th. As you can see, the fax did not go through. The "Guidelines" have generally been well-received by 'lead agencies' and their project applicants. There is a good lists of requisites for the positions and a substantial list of duties, responsibilities and project documentation/outputs.

Let me know if you have any questions about the "Guidelines."

Best regards,

Dave Singleton
Program Analyst

Enclosures

COASTAL COMMISSION

EXHIBIT # 9
PAGE 1 OF 4



**NATIVE AMERICAN HERITAGE COMMISSION
GUIDELINES FOR NATIVE AMERICAN
MONITORS/CONSULTANTS**



When developers and public agencies assess the environmental impact of their projects, they must consider "historical resources" as an aspect of the environment in accordance with California Environmental Quality Act (CEQA) Guidelines section 15064.5. These cultural features can include Native American graves and artifacts; traditional cultural landscapes; natural resources used for food, ceremonies or traditional crafts; and places that have special significance because of the spiritual power associated with them. When projects are proposed in areas where Native American cultural features are likely to be affected, one way to avoid damaging them is to have a Native American monitor/consultant present during ground disturbing work. In sensitive areas, it may also be appropriate to have a monitor/consultant on site during construction work.

A knowledgeable, well-trained Native American monitor/consultant can identify an area that has been used as a village site, gathering area, burial site, etc. and estimate how extensive the site might be. A monitor/consultant can prevent damage to a site by being able to communicate well with others involved in the project, which might involve:

1. Requesting excavation work to stop so that new discoveries can be evaluated;
2. Sharing information so that others will understand the cultural importance of the features involved;
3. Ensuring excavation or disturbance of the site is halted and the appropriate State laws are followed when human remains are discovered;
4. Helping to ensure that Native American human remains and any associated grave items are treated with culturally appropriate dignity, as is intended by State law.

By acting as a liaison between Native Americans, archaeologists, developers, contractors and public agencies, a Native American monitor/consultant can ensure that cultural features are treated appropriately from the Native American point of view. This can help others involved in a project to coordinate mitigation measures. These guidelines are intended to provide prospective monitors/consultants, and people who hire monitors/consultants, with an understanding of the scope and extent of knowledge that should be expected.

DESIRABLE KNOWLEDGE AND ABILITIES:

1. The on-site monitor/consultant should have knowledge of local historic and prehistoric Native American village sites, culture, religion, ceremony, and burial practices.
2. Knowledge and understanding of Health and Safety Code section 7050.5 and Public Resources Code section 5097.9 et al.

COASTAL COMMISSION

EXHIBIT #

9

PAGE

2

OF

4



**NATIVE AMERICAN HERITAGE COMMISSION
GUIDELINES FOR NATIVE AMERICAN
MONITORS/CONSULTANTS**



3. Ability to effectively communicate the meaning of Health and Safety Code section 7050.5 and Public Resources Code section 5097.9 et al. to project developers, Native Americans, planners, landowners, and archaeologists.
4. Ability to work with local law enforcement officials and the Native American Heritage Commission to ensure the return of all associated grave goods taken from a Native American grave during excavation.
5. Ability to travel to project sites within traditional tribal territory.
6. Knowledge and understanding of CEQA Guidelines section 15064.5 and Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended.
7. Ability to advocate for the preservation in place of Native American cultural features through knowledge and understanding of CEQA mitigation provisions, as stated in CEQA Guidelines section 15126.4(b)(A)(B), and through knowledge and understanding of Section 106 of the NHPA.
8. Ability to read a topographical map and be able to locate sites and reburial locations for future inclusion in the *Native American Heritage Commission's (NAHC) Sacred Lands Inventory*.
9. Knowledge and understanding of archaeological practices, including the phases of archaeological investigation.

REQUIREMENTS:

1. Required to communicate orally and in writing with local Native American tribes, project developers, archaeologists, planners and NAHC staff, and others involved in mitigation plans.
2. Required to maintain a daily log of activities and prepare well written progress reports on any "findings" at a project site (i.e., human remains, associated grave goods, remains, bone fragments, beads, arrow points, pottery and other artifacts).
3. Required to prepare a final written report describing the discovery of any Native American human remains and associated grave goods, and their final disposition. This report shall contain at a minimum the date of the find, description of remains and associated grave goods, date of reburial, and the geographical location of reburial, including traditional site name if known. The report shall include a discussion of mitigation measures taken to preserve or protect Native American cultural features and, if applicable, a comparison with mitigation measures described in the environmental impact report. This report shall be submitted to NAHC after the completion of the project. Information from the report may be included in the NAHC Sacred Lands Inventory.
4. Ability to identify archaeological deposits and potential areas of impact.

COASTAL COMMISSION

EXHIBIT #

9

PAGE 3 OF 4



NATIVE AMERICAN HERITAGE COMMISSION
GUIDELINES FOR NATIVE AMERICAN
MONITORS/CONSULTANTS



EXPERIENCE:

It is recommended that each monitor/consultant have experience working with Native American cultural features under the guidance of an archaeologist that meets the professional qualifications, as defined in the in the *Secretary of the Interior's Standards and Guidelines* for archaeology. Letters from an on-site archaeologist should be submitted with a copy of the archaeologist's resume. Experience and knowledge regarding cultural, traditional, and religious practices can be gained by training from tribal elders. This experience and knowledge may be verified by the submission of such things as copies of contracts, reports, and letters from elders. Formal education in an appropriate field, such as anthropology, archaeology, or ethnology, may be substituted for experience.

PREFERENCE:

It is recommended that preference for monitor/consultant positions be given to California Native Americans culturally affiliated with the project area. These Native Americans will usually have knowledge of the local customs, traditions, and religious practices. They are also aware of the local tribal leaders, elders, traditionalists, and spiritual leaders. Since it is their traditional area being impacted, culturally affiliated Native Americans have a vested interest in the project.

Approved by the Native American Heritage Commission: 9/13/2005

COASTAL COMMISSION

EXHIBIT # 9
PAGE 4 OF 4