

CALIFORNIA COASTAL COMMISSION

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Staff: M. Vaughn-LB
Staff Report: 9/20/12
Hearing Date: 10/11/12
Commission Action:

**STAFF REPORT: REGULAR CALENDAR****Application Number: 5-11-068**

Click here to go
to the staff report addendum.

Applicant: Shea Homes (John Vander Velde)**Agent:** Nancy Lucast, Steve Kaufman**Project Location:** Vacant 50 acre area at 17301 Graham Street (west of Graham Street north of Wintersburg Channel), Huntington Beach, Orange County

Project Description: Subdivision resulting in the creation of 111 residential lots, additional lots for roads, conservation, public access and public park areas; construction of 111 single family homes and related infrastructure, and construction of public active park, passive park, paseo park, public access trails, natural treatment system, habitat restoration, new storm drain system, new pump facility at the Slater storm water pump station, improvements to the flood control channel levee, flood protection feature, replace sewer pump, and new sewer force-main. (APNs 110-016-19 and 110-016-20, and 110-016-23).

Staff Recommendation: Approval with Conditions.**SUMMARY OF STAFF RECOMMENDATION:**

Commission staff is recommending **APPROVAL** of the proposed project with 27 **Special Conditions** necessary to assure that public access is maximized, environmentally sensitive habitats and wetlands are protected, the public benefits of the project occur as proposed; hazards are minimized; cultural resources are protected; water quality is protected. The applicant is in agreement with the staff recommendation. The motion to accomplish the staff recommendation is found on page 11.

Staff note:

The hearing on this application was continued from the June 2012 Commission meeting in order to allow staff time to explore resolution of any outstanding Coastal Act violations on the project site. Staff worked closely with Shea Homes to reach a resolution of these matters and proposed such resolution to the Commission for approval at the September 2012 Commission meeting. After a public hearing on the matter, the Commission issued Consent Cease and Desist Order CCC-12-CD-10 and Consent Restoration Order CCC-12-RO-10 as proposed by staff to resolve Coastal Act violations that occurred on the project site consisting of fill of the wetland known as the EPA wetland and fill of a portion of the wetland know as the CP wetland, as well as adjacent areas. Under the terms of the Consent Orders, Shea Homes has agreed to resolve Coastal Act violations - including resolving monetary claims under the Coastal Act - by, amongst other things, restoring the areas subject to the unpermitted development and providing wetland restoration work and funding that will directly benefit wetlands on and in the vicinity of the site.

EXECUTIVE SUMMARY

The Commission considered the applicant's proposed development at its October 2011 hearing, resulting in the Commission's denial of the proposed project. Subsequent to the denial, the applicant filed suit against the Commission for denying its application. The applicant and the Commission settled the lawsuit, resulting in a stipulated remand filed with the Superior Court of California for Orange County on March 2, 2012. The stipulated remand vacated and set aside the Commission's October 2011 action on the proposed development and required the Commission to schedule the matter for a new hearing. Additionally, the remand required Commission staff to make the same recommendation of approval with conditions that it had made in connection with the October 6, 2011 hearing on the subject application, and to apply the Coastal Act and the City's certified Local Coastal Program to the Parkside Estates Property. The stipulated remand provided, however, that the Commission retains full discretion provided under the Coastal Act and the City's certified Local Coastal Program to take any action pursuant to its legal authority.

During Commission deliberations on this matter at the October 2011 hearing, discussion focused primarily on five issues: the extent and history of wetlands at the site; flood protection; the extent and impacts of excavation and dewatering proposed at the site; appropriate site density and housing type; and unpermitted development. Following is a summary of each of these issues.

Wetlands

The Huntington Beach certified LCP contains a standard for when an area is considered to be a wetland and states, in pertinent part, that if an area's water table is at, near or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, then that area constitutes wetland. Essentially, if an area is wet enough long enough, it is characterized as wetland. Based on all information prepared and reviewed for the subject site, the area designated for residential and related development, is not wet enough, long enough to promote either the formation of hydric soils or to support the growth of hydrophytes. The City's certified LCP standard for wetlands is the same standard used in Section 30121 of the Coastal Act and Section

13577(b)(1) of the Commission's Regulations. Thus, the area designated and proposed for residential and related development does not meet any one of the possible three tests for wetlands: hydrology, vegetation, or soils.

Historically, the project site was part of the extensive Bolsa Chica wetlands system and the Santa Ana River/Bolsa Chica complex. However, beginning in the 1890s development began to impede the site's wetland functions within those systems. Such development included construction of a dam and tidegates in the 1890s and the introduction of agricultural uses (including agricultural ditches) in the 1930s. In addition, construction of the East Garden Grove-Wintersburg Flood Control Channel (EGGWFC) in 1959 isolated the site hydrologically from the Bolsa Chica system. Nonetheless, wetlands persisted on the site even with these alterations.

There are wetland areas on the subject site outside the proposed residential development area that are proposed to be protected and restored as part of the development plan. During the Commission's review and deliberations on the City of Huntington Beach's Local Coastal Program amendment for the site, these came to be known as the 'EPA', 'AP' and 'CP' wetland areas.

Extensive documentation addressing the extent and location of wetlands at the site has been prepared in conjunction with the proposed development, first during the LCP amendment process and now with the coastal development permit application. Updated wetland delineations dated September 1, 2009 and April 20, 2012 have been prepared by the applicant's biologist, Tony Bomkamp of Glenn Lukos Associates. In addition, the staff ecologist has reviewed historical information regarding the subject site and surrounding area, all previously submitted biological and wetland information, as well as recent aerial photos and rainfall patterns for the entire site. A complete list of all documents reviewed by the staff ecologist in conjunction with this project is included in Attachment B. The Commission's staff ecologist finds the applicant's biological consultant's claim that areas previously identified as wetland do not constitute wetlands is a moot point as these areas are nonetheless proposed for restoration and preservation in the applicant's Habitat Management Plan.

No new evidence has been submitted to support the suggestion of the presence of wetlands in areas other than those recognized in the proposed Habitat Management Plan and proposed for preservation and restoration. At the Commission's October hearing on this application a picture was shown of a bulldozer stuck in mud. The area that was shown in the photo is within the area proposed for restoration and preservation in the applicant's proposed Habitat Management Plan.

All wetlands and all necessary buffer areas are located within land that has an LUP designation of Open Space Conservation and zoned Coastal Conservation in the certified LCP. These areas are proposed to be preserved and restored under the proposed coastal development permit application.

Flooding

As stated above, the subject site was once part of the extensive Santa Ana River/Bolsa Chica complex. Historically, the site was part of the flood plain but the pre-Coastal Act construction of a dam and tidegates among other things have effectively removed the site from functioning as a flood plain.

Floodplain

High tides combined with storm surge will create tidal flooding across the site. However, it is also important to note that the neighborhood immediately north of the subject site and additional areas inland of the subject site are located within the flood path and are at lower elevations than the subject site. Thus, the subject site would not retain flood waters and will not function as a protective flood plain. In a worst case flooding scenario (high tide, storm surge, and failure of the lower reaches of the levees), up to 170 acres of inland developed area would be flooded under current site conditions.

The path the tidal flooding would follow unavoidably crosses the subject site. The area in the southwest corner of the site between the flood control channel and the bluff provides a relatively narrow area within which construction of a barrier would allow the flooding to be captured and contained. Construction of the proposed “vegetated flood protection feature” (VFPP) within this narrow area between the two higher elevation areas (levee and bluff) presents the only feasible option for adequately insuring protection of the inland 170 acres of existing development. Protection of the inland 170 acres would also protect the 50 acre subject site from flooding.

Regardless of whether the subject site is developed, the inland 170 acres of existing development needs to be protected from flood hazard. Theoretically, a flood control assessment district could be formed to provide flood protection for the subject site and surrounding area. However, the owners of the surrounding affected properties are not co-applicants in the current application and therefore flood control alternatives involving development on the surrounding properties are not before the Commission. Alternatively, the proposed VFPP could be constructed by the Orange County Flood Control District (OCFCD) which serves the subject area. However, there is currently no plan or funding in place for the County flood control district to undertake the project. The OCFCD has endorsed the proposed VFPP. See exhibit 24 for an email from Orange County Public Works – Flood Control Design regarding the need for the VFPP for areas inland of the subject site. See exhibit 25 for a letter from the City of Huntington Beach Director of Public Works regarding the need for the VFPP.

VFPP Location

A suggestion raised at the October 2011 Commission meeting was that a flood protection feature could be constructed along the northern border of the site. Such a structure would need to be over 1,500 feet long, bringing its feasibility into question. Moreover, unless the structure is also extended along the northeast property line as well as extended approximately 360 feet along the eastern property line, the structure would not stop inland flooding. Finally, and most importantly, such a structure would need to be constructed within ESHA in order to tie into the bluff at the westerly side of the property. Thus, this alternative structure would not be the least environmentally damaging, feasible alternative.

The proposed location of the VFPP avoids direct impacts to ESHA, wetlands, and wetland buffers. It also involves the least encroachment into ESHA buffers. Finally, it avoids impacts to

archeological resources. Considering all these factors, the proposed location was selected as the least environmentally damaging feasible alternative.

CLOMR

At the October 2011 hearing, it was suggested that the flood protection benefits of the proposed project are overstated or untrue because FEMA's Conditional Letter of Map Revision (CLOMR) is no longer valid. The argument presented at the hearing was that the CLOMR predates the 2009 flood maps for the area, yet the flood map was not revised to remove the inland area from the flood map. If the CLOMR were valid, according to the argument, the inland area would have been removed from the map when it was updated in 2009.

According to FEMA, *"A Conditional Letter of Map Revision (CLOMR) is FEMA's comment on a proposed project that would, **upon construction**, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The letter does not revise an effective NFIP map, it indicates whether the project, **if built as proposed**, would be recognized by FEMA. ... Once a project has been completed, the community must request a revision to the Flood Insurance Rate Map (FIRM) to reflect the project. "As-built" certification and other data must be submitted to support the revision request."* [emphasis added]

Further, in a letter dated October 6, 2011, FEMA states that the CLOMR in question remains valid. FEMA's October 6, 2011 letter is attached as exhibit 20.

Groundwater, Excavation & Dewatering

The site is susceptible to liquefaction during a major earthquake. In addition, the presence of peat could lead to settlement problems because organic materials such as peat are subject to decay and volume loss with time. Although organic materials such as peat are part of the make up of on-site soils, significant deposits are not present and organic material is not a factor driving the need for overexcavation/recompaction of the site's soils. Peat is an indicator of wetland soils. However, the presence of peat in this case does not indicate the presence of wetlands because the peat is located at depths beneath which wetlands exist. To mitigate the liquefaction and settlement issues, overexcavation, recompaction and dewatering are proposed to assure stability of the subject site and surrounding area.

The applicant has proposed "slot excavations" where a limited amount of area would be excavated at a time. These "slots" would be excavated to a depth of approximately 10 feet, the soils spread out in areas designated for residential development to dry over an approximately 3-5 day period, removing unsuitable material¹, and then refilling the slot with the dried material and additional clean fill. As one slot is closed, the adjacent area will be opened.

Concerns have been expressed that the proposed overexcavation, recompaction and dewatering may endanger existing nearby development. The concern is that as the subject site is dewatered, the

¹ The unsuitable fill material will be stockpiled on site for use in common landscape areas.

groundwater levels, not just at the subject site, but potentially under the existing residential development immediately north of the site could also drop, resulting in settlement of existing development. However, settlement in the adjacent neighborhood to the north is not expected as a result of the proposed overexcavation, recompaction, and dewatering process. Pacific Soils Engineering (PSE) has monitored groundwater at the project site since 1999². Based on this monitoring, the drawdown elevation is less than recorded historic lows that occur regardless of activity on the subject site. Nevertheless, Special Condition 26 requires that the northern property line be closely monitored, and if the monitoring reveals that drawdown to -8 feet (Mean Sea Level National Agency Vertical Datum 88 (MSL NAVD 88)) has occurred along the northern property line or to -19 feet at the southeast corner of the site and/or if ¼ inch of subsidence occurs at the northern property line, all groundwater pumping must cease immediately and the preparation of a mitigation plan that must be approved by the Commission through a subsequent permit amendment. In April 2012, the applicant installed nine benchmark monuments along the northern property line and one benchmark monument in the southeast corner of the site (near Graham Street and the EGGW flood control channel) determine a baseline elevation prior to beginning any excavation or dewatering work at the site.

Due to the subject site's elevation range from 1.9 feet (MSL NAVD) to 4.4 feet (MSL NAVD), the above described site excavations will extend below sea level, making dewatering operations necessary. The groundwater that will be dewatered during construction is both the perched water in the upper sediments, as well as the deeper waters that have been tracked below this site since 1999, varying seasonally in elevation from as high as 0 to as low as minus 23. The proposed dewatering has been addressed in numerous Pacific Soils Engineering (PSE) reports which conclude that drawdown during construction will be within historic fluctuations; thus, no new settlement response is expected.

During the hearing on this matter in October 2011, a report was cited as a basis to suggest that groundwater drawdown levels of the PSE report may not be accurate. The May 20, 2010 report prepared by Hushmand Associates, Inc. (HAI report) did not study the proposed project site. The preparer of the report, in a letter dated 10/3/11 (exhibit 21), states that the report was not intended to and should not be used to evaluate development proposed at the subject site. The PSE report, however, did specifically study the subject site over the course of more than ten years. The Commission's staff engineer has reviewed the PSE report(s) and concurs with the conclusions contained therein. The proposed overexcavation, recompaction, and dewatering is not expected to result in settlement of the adjacent neighborhood. Though settlement is not anticipated, Special Condition 26 requires monitoring for settlement and measures to avoid adverse impacts caused by settlement.

Density

Concerns regarding appropriate density and product type have been raised regarding the proposed project. More specifically, questions were raised regarding whether a higher density, more compact product type might be more appropriate for the subject site.

The developable area of the subject site was determined based on the presence of wetlands, ESHA,

² This period of monitoring includes periods of unusually high rainfall and periods of unusually low rainfall.

and necessary buffer areas. Also considered in determining the developable area was the need to minimize hazards, promote public access, preserve cultural resources, and promote water quality, as described in greater detail in the body of this report. Based on these considerations, the eastern portion of the site was determined to be developable for the proposed residential and associated uses.

When the Commission approved the land use plan amendment for the subject site it did so with a suggested modification that allowed the City to apply either the RL (Residential Low, maximum of 7 units per net acre) or the RM (Residential Medium, from 7 to a maximum of 15 units per net acre) designation to the 26.5 acre developable portion of the site. The intent of allowing a higher density at the site was, in part, to provide the option of concentrating development consistent with Section 30250 of the Coastal Act which encourages residential development to be concentrated in areas able to accommodate it. However, the option to designate the eastern, developable portion of the site for low density development was also offered. Ultimately, the City chose to certify the developable portion of the site with a low density designation, consistent with the Commission's range of options. Under the low density residential designation (up to 7 units per acre), up to 185 units are allowed within the developable, residentially zoned area. The proposed project includes 111 single family residences. This density is preferred by the City for this area of the City and specifically the project site. Recently, the City and Commission approved an update to the City's Downtown Specific Plan (DSP). The DSP covers the area inland from the City's pier surrounding Main Street. The approved Downtown Specific Plan update (HNB-MAJ-1-10, approved by the Commission on June 15, 2011) increased the density in portions of the DSP area. The City preferred the increased density in this area because it is a mixed use area (commercial, office, residential), served by alternate modes of transportation. The City feels that because the subject site does not offer the same opportunities, the higher density is not appropriate here.

Unpermitted Development

As noted above, the question of the unpermitted development was heard by the Commission at the September 2012 Commission meeting. After a public hearing on the matter, the Commission issued Consent Cease and Desist Order CCC-12-CD-10 and Consent Restoration Order CCC-12-RO-10 as proposed by staff to resolve Coastal Act violations that occurred on the project site consisting of fill of the wetland known as the EPA wetland and fill of a portion of the wetland known as the CP wetland, as well as adjacent areas. Under the terms of the Consent Orders, Shea Homes has agreed to resolve Coastal Act violations - including resolving monetary claims under the Coastal Act - by, amongst other things, restoring the areas subject to the unpermitted development and providing wetland restoration work and funding that will directly benefit wetlands on and in the vicinity of the site.

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APPENDICES

- A. Substantive File Documents
- B. Documents Reviewed by Staff Ecologist in Conjunction with Project

LIST OF EXHIBITS

- 1. Vicinity Map
- 2. Location Map
- 3. Approved Land Use Designations per HNB LCPA 1-06
- 4. Colored Lot Exhibit
- 5. Proposed Public Access Plan
- 6. Proposed HMP Restoration Plan, Revised September 2011
- 7. Subject Site Relative to BCER & Brightwater
- 8. Proposed TTM 15377
- 9. Proposed TTM 15419
- 10. Existing Parcel Configuration
- 11. Proposed Privacy/Security Wall Adjacent to Levee Trail
- 12. Proposed Public Access During Construction

13. Huntington Beach Letter Indicating Willingness to Accept Parks and NTS in Fee and Trail Easement Dedications
14. Huntington Beach Fire Department Memo Re Fuel Modification
15. Orange County Parks Letter Re Levee Trail
16. Orange County Public Works AIC for VFPP and Levee Upgrades
17. Orange County Public Works Letter Re Willingness to Accept VFPP
18. LSA Letter Re Review of Proposed Landscape Plan Plant Palette
19. Proposed Lot/Housing Information Matrix
20. FEMA Letter Re Validity of CLOMR, 10/6/11
21. HAI letter, 10/3/11
22. Orange County Water District letter, 5/15/12
23. Shea Homes letter, 5/17/12, with Remedial Grading Exhibits
24. Email Correspondence from the County of Orange Regarding the VFPP
25. Letter from the City of Huntington Beach Regarding the VFPP
26. Letter from the Bolsa Chica Land Trust 6/3/12
27. Applicant's Response to the BCLT 6/3/12 Letter

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit No. 5-11-068 pursuant to the staff recommendation.*

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

Resolution:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit 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.

II. STANDARD CONDITIONS

This permit is granted subject to the following 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

This permit is granted subject to the following special conditions:

1. OPEN SPACE CONSERVATION AREA RESTRICTION

- A. No development, as defined in Section 30106 of the Coastal Act, shall occur within the land that is land use designated Open Space Conservation and zoned Coastal Conservation except:
 1. Habitat creation and restoration (described in the document titled Habitat Management Plan, Parkside Estates, prepared by LSA Associates, Inc., for Shea Homes, dated September 2011 as revised by the conditions of this permit, within Lot 1, TTM 15419, and Lots Z, AA, BB, and CC of TTM 15377, which lands are generally, but not fully depicted in Exhibit 4;
 2. Construction of the vegetated flood protection feature (VFPP) within Lot Y (only as approved by this permit and consistent with the geotechnical plans that incorporate the provisions of protection of the archaeological resources.
 3. Construction of the Water Quality Natural Treatment System within Lot X (only as approved by this permit and as depicted in the Water Quality Management Plan for Parkside Estates, prepared by Hunsaker &

Associates, dated September 11, 2009, and on plans titled Rough Grading Plan for Tentative Tract 15377 & Tentative Tract 15419, prepared by Hunsaker & Associates, and dated 9/19/2011));

4. Passive Park within Lot S (only as approved by this permit and as depicted on plans titled Rough Grading Plan for Tentative Tract 15377 & Tentative Tract 15419, prepared by Hunsaker & Associates, and dated 9/19/2011);
5. Grading (only as approved by this permit);
6. Public access trail and associated appurtenances and public access and interpretive signage (only as approved by this permit), and;
7. Maintenance and repair activities pursuant to and in conjunction with the management and maintenance of the HMP described in A1 above.
8. The HMP, as proposed and as conditioned, addresses the need for fuel modification by the types and locations of vegetation to be established. As approved by the City of Huntington Beach Fire Department, the HMP states that vegetation removal for fuel modification is not required. Vegetation removal for fuel modification within the HMP area is not a part of this coastal development permit and is prohibited.

- B. The following additional development may be allowed in the area land use designated Open Space Conservation and zoned Coastal Conservation subject to approval by the Coastal Commission of an amendment to this permit or a new coastal development permit (unless the Executive Director determines that none is legally required):
1. Habitat creation and restoration beyond that described in the approved final HMP;
 2. Maintenance, repair and upgrade of water quality management structures and drains;
 3. Minor maintenance and repair of the approved Vegetated Flood Protection Feature consistent with the approved VFPP plan;
 4. Public access and recreation improvements that do not interfere with the habitat or habitat buffer areas.
- C. The area land use designated Open Space Conservation and zoned Coastal Conservation shall be maintained in accordance with this coastal development permit and the approved final HMP.

2. **HABITAT MANAGEMENT PLAN**

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a revised Habitat Management Plan that incorporates the following changes:
- 1) Eliminates any fencing and/or gate(s) that interfere with public use of the Vista Point trail across the entire length of the top of the vegetated flood protection feature (VFPP). Any reference to such fencing and/or gate(s) shall be eliminated from the HMP. Figures 1-4, 4-1, 6-1, 6-2, 7-1 shall be replaced with figures that delete such fencing and/or gate(s) across the top of the VFPP Vista Point trail;

- 2) On page 4-17 and page 6-17 delete the sentence “Remedial measures will be developed in consultation with CCC staff and approved by the Executive Director prior to implementation.”
 - 3) Replace the deleted sentence on page 4-17 and page 6-17 with the following sentence: “Remedial measures shall require an amendment to this coastal development permit unless the Executive Director determines that none is legally required.”
 - 4) Requires all quantitative sampling to be based on spatially stratified, randomly placed sampling units;
 - 5) In Appendix A (Maintenance and Monitoring Schedule), replace the term “long-term maintenance plan” with “long-term management plan.”
 - 6) Revise the HMP to incorporate the restoration activities described in Section 4.2A of Consent Cease and Desist Order No. CCC-12-CD-10 and Consent Restoration Order No. CCC-12-RO-10 issued by the Commission on September 13, 2012.
- B. The applicant shall implement all wetland and habitat creation, restoration, conservation, maintenance and management, as proposed and described in the document titled Habitat Management Plan, Parkside Estates, prepared by LSA Associates, Inc., for Shea Homes, revised September 2011 and as revised by the conditions of this permit. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Coastal Commission approved amendment to this coastal development permit or an approved coastal development permit unless the Executive Director determines that none is legally required.
- C. Consistent with the proposed Habitat Management Plan, all areas on the subject site within the land use designation Open Space Conservation and zoned Coastal Conservation, shall be managed and maintained in perpetuity as follows:

Lot No.	Use	Area (acres)	Maintained By
Lot 1 TTM 15419	Open Space, Wetland, Southern Eucalyptus ESHA, wetland and habitat restoration	4.8	HOA
S TTM 15377	Passive Park	0.57	HOA <i>and City</i>
Z TTM 15377	Restoration/Creation AP/EPA Wetland	4	HOA
AA TTM 15377	Restoration/Creation AP/EPA Wetland, Buffer area surrounding AP/EPA Wetland (Lot Z)	5.4	HOA
BB* TTM 15377	Restoration/Creation AP/EPA Wetland, Northern Eucalyptus ESHA, buffer area, and restored habitat	3.7	HOA
CC* TTM 15377	Open Space – Northern portion of northern	0.4	HOA

	Eucalyptus Grove ESHA and Retention of existing informal trail along western end of northern property line		
Y TTM 15377	VFPF (includes Vista Point trail)	1.5	County
X TTM 15377	NTS	1.6	City

- D. All planting described in the approved Habitat Management Plan shall be complete prior to issuance of any certificate of occupancy for any residence. On-going management of the habitat, including maintenance and monitoring, shall continue in perpetuity as described in the approved final Habitat Management Plan (titled Habitat Management Plan, Parkside Estates, prepared by LSA Associates, Inc., for Shea Homes, dated September 2011 as revised by the conditions of this permit).
- E. The permittee shall undertake development in accordance with the approved final plans. As in all cases, the ongoing management of the area that is subject to the Habitat Management Plan (HMP) continues to apply to successors in interest, including purchasers of individual residential lots, consistent with the requirements of the Homeowners Association proposed in conjunction with the approval of the Parkside Estates development approved in this permit.

3. PUBLIC AMENITIES & TRAIL MANAGEMENT PLAN

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a Public Amenities and Trail Management Plan that includes, but is not limited to:

A. Public Amenities & Trails Provided

At a minimum, public amenities and uses shall be provided as listed below:

Lot No.	Use	Dedicated to	Maintained By	Conveyed via	Area (acres)
A TTM 15377	Active Park	City in fee	HOA and City	Offer to Dedicate (OTD) in fee to City; dedication on tract map	1 Acre
B	Sewer Lift	City in fee	City	OTD in fee to	0.04 Acre

5-11-068 (Shea Homes/Parkside)

TTM 15377	Station; 10 foot wide public access easement			City for sewer lift station; OTD easement to City for 10' wide public access; dedication on tract map	
C³ TTM 15377	(1) Sidewalk; (2) Public trail/access path & landscaping	(1) HOA in fee (2) OTD easement to the City	(1) HOA and City (2) HOA	CC&Rs; dedication on tract map (2) OTD; dedication on trail map	
D* TTM 15377	Public trail from Lot C to interior street	HOA in fee; trail OTD to the City	HOA	OTD easement to City; dedication on tract map	
O – R* TTM 15377	(1) <i>Paseo Park</i> (2) 10' wide public access easement	(1) HOA (in fee) (2) OTD to City	HOA	deed restriction; CC&Rs; dedication on tract map (2) OTD easement to the City; dedication on tract map	1.8 Acres
N TTM 15377	Pedestrian Access (levee trail connectors) & Drainage	HOA in fee	HOA	OTD trail easement to the City; dedication on tract map	0.1 Acre
W* TTM 15377	Pedestrian Access (levee to EPA trail)	HOA in fee	HOA	OTD trail easement to City; CC&Rs;	

³ The following lots shown on TTM 15377 shall be combined and re-lettered: (1) Lots C and D; (2) Lots O, P, Q, and R; and (3) Lots T, U, and W. Lots BB and CC shown on TTM 15377 shall be combined into a single lot, Lot BB.

				dedication on tract map	
S TTM 15377	Passive Park	City in fee	HOA and City	OTD to City in fee; Dedication on tract map	0.6 Acre
T, U, V* TTM 15377	Open Space Public Access (EPA Trail)	HOA in fee	HOA	OTD easement to City, CC&Rs; dedication on tract map	0.6 Acre
Y TTM 15377	VFPP and Public Access (Vista Point Trail)	<i>County in fee</i>	County	Dedication on tract map	1.5 Acres
CC TTM 15377	Open Space Informal Trail at western end of northern property line	HOA in fee	HOA	Deed restriction, CC&Rs; dedication on tract map	0.4 Acres
Street "A"	Public streets & sidewalks; entry landscaping	Street "A" dedicated in fee to City; landscape area to HOA;	landscape maintained by HOA	dedication on tract map; CC&Rs (entry landscaping)	
Streets "B" – "F" TTM 15377	Public streets & sidewalks	City	City	Dedication on tract map	

B. Public Access Signage

The Public Amenities & Trail Management Plan shall include a detailed signage plan that directs the public to the public trails and public recreational opportunities on the project site. Signs shall invite and encourage public use of access and recreation opportunities and shall identify and direct the public to their locations. At a minimum, the detailed signage plan shall include:

1. Public Access Signage shall be provided, at a minimum, in a visually prominent place visible to vehicular and pedestrian traffic at each of the following locations:
 - a. Graham Street entry into the subdivision;
 - b. Graham Street entry onto the levee top trail;
 - c. Emergency vehicle and public pedestrian entry at Greenleaf Lane;
 - d. Each end of the EPA wetland trail (at the active park and at the western cul de sac of C Street);
 - e. At the levee and at the immediately adjacent street for each of the two levee connector trails (within Lot N and Lot W);
 - f. Vista Point Trail connection with the levee.
 - g. The point where the trail at the western end of the northern property line, adjacent to the passive park, begins the ascent to the Bolsa Chica mesa area.
 2. In addition to and/or in conjunction with the above, Public Amenity Overview Signs shall be provided in a visually prominent place visible to vehicular and pedestrian traffic at each of the following locations:
 - a. Graham Street entry into the subdivision;
 - b. Graham Street entry onto the levee top trail;
 - c. Emergency vehicle and public pedestrian entry at Greenleaf Lane;
 - d. Vista Point Trail connection with the levee
 3. The public access and amenities signage plan shall include, at a minimum, plans indicating the size, wording and placement of public access signs.
 4. Signage shall be visible from Graham Street at the subdivision entry and at the levee, from Greenleaf Lane, from the levee at the Vista Point trail (VFPP) and at both levee connector trails (Lots N and W), and from internal circulation roads and parks. Signage shall include public facility identification monuments (e.g. public park name); facility identification/directional monuments (e.g. location of public amenities on-site and in the vicinity); informational signage and circulation; and roadways signs.
 5. Signage shall convey the message that public pedestrian and recreational use is permitted and invited.
 6. Vegetation shall not be allowed to obscure public access and amenities signage.
 7. Signage that has the effect or creates the effect of limiting public use of the public trails and amenities are prohibited.
 8. Signs and displays not explicitly permitted in this document shall require an amendment to this permit unless the Executive Director determines that no amendment is legally required.
- C. Community identification signage at the main project entry (at Graham Street) is allowed provided that any such signage also makes clear the availability of the public trails and amenities throughout the site and that the public is welcome.

- D.** The required public access and amenities plans shall identify all structures including location, dimensions, materials and colors, and use as well as sign and interpretive display text and graphics, size and orientation. All plans shall be of sufficient scale and detail to verify the location, size and content of all signage, and the location and orientation, size, materials and use of structures during a physical inspection of the premises.
- E.** Recreational appurtenances such as benches; refuse containers; fencing between the trail and habitat areas; erosion control and footpath control plantings shall be depicted on the required public access and amenities plans.
- F.** All public areas, including parks and trails, shall include low intensity lighting during nighttime hours. Such lighting shall be consistent with Special Condition No. 17 regarding directing all lighting within the development away from wetlands, ESHA, and other habitat and buffer areas. The required lighting shall be included in the lighting plan described and required in Special Condition No. 17.
- G.** All sidewalks and streets within the development shall be open and available to the general public.
- H.** The public trail/maintenance road and vista point atop the VFPP shall be free of gates or fencing that restricts access across the top of the VFPP. Fencing to protect the restored habitat and that does not interfere with the public VFPP trail or with public views is allowed.
- I.** The vehicular restriction at the emergency vehicle entrance from Greenleaf shall be the minimum necessary to preclude non-emergency vehicles. The placement of a series of bollards (which allow easy pedestrian access) is preferred to the construction of a gate.
- J.** Measures that discourage public use of any public trails/amenities on-site, including but not limited to, use of trails, parks, and viewpoints, are prohibited. Such prohibited measures include, but are not limited to, installation of gates, and/or use of guards.
- K.** Any limitation on the hours of public use is prohibited unless the applicant or its successor-in-interest applies for an amendment to this coastal development permit or a separate coastal development permit for a limitation on the hours of public use and receives authorization for such limitations from the Commission.
- L.** The plan shall identify the minimum allowable width for each of the proposed trails, which shall be no less than 10 feet wide. Except within the Paseo Park area, the minimum 10 foot width shall be devoted entirely to pedestrian trail area and shall be exclusive of any area necessary for landscaping and/or buffer and/or setback area or similar type of development. Within the Paseo Park, the width of the easement offered for dedication shall be a minimum of 10 feet wide, and the trail itself, which may meander within the easement, shall be no less than 3½ feet wide and maintained as a public access trail.
- M.** All subdivision and project roads and sidewalks shall remain open and available to the public for vehicular, parking, pedestrian, and bicycle use. All limitations or restrictions are prohibited except temporary restrictions for public safety when a documented need arises, subject to approval of a coastal development permit.
- N.** Restrictions on public parking, including, but not limited to limited hours and/or preferential parking districts, are prohibited. Parking restrictions to allow periodic street cleaning is allowed provided the restriction is the least necessary to accomplish the objective and that the restriction is no greater than on-street street cleaning parking restrictions typically established throughout the City.
- O.** Site entry points, including the Graham Street entry, and all streets and trails shall remain free of any type of entry restrictions including, but not limited to gates, guarded entry,

and/or structures/uses that may be construed and/or interpreted as limiting public use at the site.

- P. No permanent gates or access restrictions are allowed. Only temporary gates and access restrictions as necessary for construction safety purposes are allowed.
- Q. No permanent chain link fencing is allowed; only temporary chain link fencing as necessary for safety during construction may be allowed.
- R. All public trails and amenities shall be maintained at all times in a manner that promotes public use.
- S. The extent of public trails and amenities shall not be reduced from that depicted on the approved final Public Amenities and Trail Management Plan.
- T. The public access trail easements and the lots within which they occur shall be maintained in a manner that promotes public access and use of these public trails, as proposed by the permittee and as described in and required by this permit.
- U. The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the property. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property.
- V. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. PUBLIC RESTROOM

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, plans that incorporate a permanent public restroom within the proposed Active Park. The plans shall identify the restroom location within the active park; and shall provide plans detailing the specifics of the restroom including, but not limited to, floor plans and elevations.

- A. The requirement to provide the public restroom and to manage and maintain the restroom for the life of the project shall be incorporated into the CC&Rs described in Special Condition No. 13 below.
- B. The restroom shall be available to the public, at a minimum, during daylight hours.
- C. On-going maintenance and management of the public restroom shall be the responsibility of the Homeowner' Association (HOA) proposed by the applicant.
- D. Subject to approval of an amendment to this coastal development permit or a new coastal development permit, long term maintenance and management of the permanent public restroom may be accepted by a public agency(ies) or non-profit entity(ies) acceptable to the Executive Director.
- E. Subject to approval of an amendment to this coastal development permit, the applicant may propose an alternate location for the required public restroom so long as the

alternate location is within the vicinity of the public trail and recreation system found in and around the Bolsa Chica Ecological Reserve, the Brightwater development, the flood control channel levees, and the subject site; and provided that signage identifying the location of the restroom is placed, at a minimum, within the subject site public access signage system and at the alternate location.

5. PUBLIC ACCESS AND RECREATION REQUIREMENTS AND IMPROVEMENTS

A. Streets, Roads and Public Parking

As proposed, all streets, roads and parking shall be publicly maintained and all streets, roads and public parking areas identified on the Parking Plan prepared by Hunsaker & Associates, Inc., dated 9/1/09 shall be for public street purposes including, but not limited to, pedestrian, bicycle and vehicular access. All streets, roads and on-street public parking spaces shall be open for use by the general public 24 hours per day, with the exception of standard limited parking restrictions for street sweeping/maintenance purposes. Long term or permanent physical obstruction of streets, roads and public parking areas (e.g. red curbing and restriction/limitation signage) shall be prohibited. All public entry controls (e.g. gates, gate/guard houses, guards, signage, etc.) and restrictions on use by the general public (e.g. preferential parking districts, resident-only parking periods/permits, etc.) associated with any streets or parking areas shall be prohibited.

B. Public Trails

As proposed by the applicant and as described in Special Condition 3 of this permit, no development, as defined in Section 30106 of the Coastal Act, shall occur within the lots identified for public access trail easements except for the following development: grading and construction necessary to construct the trails and appurtenances allowed by this permit, vegetation planting and maintenance, drainage devices approved pursuant to this permit, maintenance and repair activities pursuant to and in conjunction with the approved final Habitat Management Plan and approved final Public Amenities and Trail Management Plan. Development that diminishes permanent public access shall be prohibited. As proposed, the public pedestrian trails shall have a decomposed granite surface, shall be a minimum of ten feet in width and shall be located within the lettered lots as proposed. The public access trails shall be open to the general public for passive recreational use.

C. Public Parks

The Active Park (Lot A), the Passive Park (Lot S) and the Paseo Park (Lots O, P, Q, R) shown on proposed Tentative Tract Map No. 15377 dated May 24, 2011 (exhibit 8 of this staff report), shall be open to the general public and maintained for active and passive park use as proposed. No development, as defined in Section 30106 of the Coastal Act, shall occur within any of these parks, except for the following development as approved by this permit: grading and construction necessary to construct the parks, vegetation removal, planting and on-going maintenance consistent with the approved landscape plan, drainage devices approved pursuant to this permit, and maintenance and repair activities pursuant to and in conjunction with the management and maintenance of the parks. In addition, the following shall be allowed within the Active Park: tot lot

play area, swing set play area, picnic areas, benches and refuse containers for use by the general public, public access signage, public access signage, and public restroom facilities.

The applicant shall ensure the construction and completion of the public access and passive recreation improvements for parks and trail purposes is carried out as proposed by the applicant in a timely manner consistent with Special Condition 7, Development Phasing.

6. ENTRY MONUMENTATION

- A. All entry monumentation, including signage, walls, and arbors, shall be eliminated from the project, with the exception of signage approved pursuant to Special Condition 3 of this permit. **Prior to issuance of the Coastal Development Permit**, the applicant shall submit revised plans, for the review and approval of the Executive Director, reflecting this requirement.
- B. All development shall conform with the approved final plans.

7. DEVELOPMENT PHASING

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a final development phasing plan for review and approval by the Executive Director, which shall conform to the following:

- 1. All development shall be consistent with the requirements of the approved Habitat Management Plan (titled Habitat Management Plan, Parkside Estates, prepared by LSA Associates, Inc., for Shea Homes, revised September 2011 and as conditioned by this permit). In addition, during the period of raptor nest initiation (January 1 through April 30), no grubbing, grading or other development activity shall take place within 328 feet (100 meters) of the Eucalyptus ESHAs. If raptors are nesting, no grading or other activities shall occur within 500 feet of any active nest. The applicant shall initiate implementation of the approved Habitat Management Plan as soon as practical following deep grading within the area zoned for residential development and prior to or concurrent with surface grading of the residential area. The applicant shall carry out the restoration work in an expeditious manner. As proposed by the applicant, no rodenticides shall be used during site preparation, grading or construction, or for the life of the development.
- 2. Grading of the public trails, parks and amenities shall occur as soon as practical following deep grading within the area zoned for residential development and prior to or concurrent with surface grading of the residential area. All grading shall be carried out consistent with the provisions for the protection of the ESHA, wetland and habitat areas. The construction of the public trails, parks and amenities and the planting described in the approved Habitat Management Plan shall begin as soon as practical following the construction of the proposed public infrastructure (e.g. the public streets of the subdivision, the Natural Treatment System, the Vegetated Flood Protection Feature and improvements to the Huntington Beach Slater Pump Station).

The applicant shall construct the public trails, parks and amenities in an expeditious manner.

Public Access at the site during construction shall be maintained. Continuation of public use of the informal trail at the base of the bluff at the western side of the property shall not be obstructed or prevented prior to availability of either of the two proposed public access trails as shown on Exhibit 12 (Public Trail Access During Construction Revised Tentative Tract Map No. 15377). The two public access trails to be available during construction after the informal trail is no longer available to the public during construction are: 1) public trail through the Paseo Park trail linked to the EPA trail; and 2) levee trail atop the north levee of the East Garden Grove Wintersburg flood control channel. The provision of public access during construction, including temporary public access signage, shall be carried out as proposed by the applicant and as reflected in Exhibit 12 of this staff report. Any temporary public access interruption shall be the minimum necessary, shall not exceed one week duration, and shall be reported to the Executive Director prior to being implemented.

3. Construction of the public trails, parks and restroom, pursuant to the approved Public Amenities and Trail Management Plan, the installation of habitat protection fencing pursuant to the approved final Habitat Management Plan, the installation of public access signage consistent with the Public Amenities and Trail Management Plan and the opening of the parks, trails and restroom for public use shall occur prior to or concurrently with the issuance of the certificate of occupancy for the first residence. Interim public trail access shall be provided at all times prior to the opening of trails required by the Public Amenities and Trail Management Plan.

B. The approved Public Amenities & Trail Management Plan shall be implemented and construction of physical features of the plan completed prior to issuance of the certificate of occupancy for the first residence.

C. The permittee shall undertake development in accordance with the approval final construction/development phasing plans.

D. Any proposed changes to the approved final plans or phases of construction shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

8. PROTECTION OF POTENTIAL ARCHAEOLOGICAL RESOURCES DURING GRADING

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director an archeological monitoring and mitigation plan, prepared by a qualified professional, that shall incorporate the following measures and procedures:

1. Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, Native American monitor(s) with documented ancestral ties to the area appointed consistent with the standards of the Native American Heritage Commission (NAHC), and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD, shall monitor all project grading;
2. The permittee shall provide sufficient archeological and Native American monitors to assure that all project grading that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times. All archaeological monitors, Native American monitors and Native American most likely descendents (MLD), if State Law requires the involvement of the MLD, shall be provided with a copy of the approved archaeological monitoring and mitigation plan required by this permit. Prior to commencement of grading, the applicant shall convene an on-site pre-grading meeting with all archaeological monitors, Native American monitors and Native American most likely descendents (MLD) along with the grading contractor, the applicant and the applicant's archaeological consultant in order to make sure all parties understand the procedures to be followed pursuant to the approved archaeological monitoring and mitigation plan. At the conclusion of the meeting all parties attending the on-site pre-grading meeting shall be required to sign a declaration, which has been prepared by the applicant, subject to the review and approval of the Executive Director, stating that they have read, discussed and fully understand the procedures and requirements of the approved archaeological monitoring and mitigation plan and agree to abide by the terms thereof. The declaration shall also include contact phone numbers for all parties. The declaration shall also contain the following procedures to be followed if disputes arise in the field regarding the procedures and requirement of the approved archaeological monitoring and mitigation plan. Prior to commencement of grading, the applicant shall submit a copy of the signed declaration to the Executive Director and to each signatory.
 - (a) Any disputes in the field arising among the archaeologist, archaeological monitors, Native American monitors, Native American most likely descendents (MLD), the grading contractor or the applicant regarding compliance with the procedures and requirements of the approved archaeological monitoring and mitigation plan shall be promptly reported to the Executive Director via e-mail and telephone.
 - (b) All work shall be halted in the area(s) of dispute. Work may continue in area(s) not subject to dispute, in accordance with all provisions of this special condition.
 - (c) Disputes shall be resolved by the Executive Director, in consultation with the archaeological peer reviewers, Native American monitors, Native American MLD (if State Law requires the involvement of the MLD), the archaeologist and the applicant.
 - (d) If the dispute cannot be resolved by the Executive Director in a timely fashion, said dispute shall be reported to the Commission for resolution at the next regularly scheduled Commission meeting.
3. If any cultural deposits are discovered during project construction, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites,

- religious or spiritual sites, or features, the permittee shall carry out significance testing of said deposits and, if cultural deposits are found by the Executive Director to be significant pursuant to subsection C of this condition and, if applicable, any other relevant provisions, additional investigation and mitigation in accordance with all subsections of this special condition shall be carried out and implemented;
4. If any cultural deposits are discovered, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or features, all construction shall cease in accordance with subsection B. of this special condition;
 5. In addition to recovery and reburial, in-situ preservation and avoidance of cultural deposits shall be considered as mitigation options, to be determined in accordance with the process outlined in this condition;
 6. If human remains are encountered, the permittee shall comply with applicable State and Federal laws. Procedures outlined in the monitoring and mitigation plan shall not prejudice the ability to comply with applicable State and Federal laws, including but not limited to, negotiations between the landowner and the MLD regarding the manner of treatment of human remains including, but not limited to, scientific or cultural study of the remains (preferably non-destructive); selection of in-situ preservation of remains, or recovery, repatriation and reburial of remains; the time frame within which reburial or ceremonies must be conducted; or selection of attendees to reburial events or ceremonies. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Where appropriate and consistent with State and Federal laws, the treatment of remains shall be decided as a component of the process outlined in the other subsections of this condition.
 7. Prior to the commencement and/or re-commencement of any monitoring, the permittee shall notify each archeological and Native American monitor of the requirements and procedures established by this special condition. Furthermore, prior to the commencement and/or re-commencement of any monitoring, the permittee shall provide a copy of this special condition, the archeological monitoring and mitigation plan approved by the Executive Director, and any other plans required pursuant to this condition and which have been approved by the Executive Director, to each monitor.
- B. If an area of cultural deposits, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or features, is discovered during the course of the project, all construction activities in the area of the discovery that have any potential to uncover or otherwise disturb cultural deposits in the area of the discovery and all construction that may foreclose mitigation options or the ability to implement the requirements of this condition shall cease and shall not recommence except as provided in subsection D and other subsections of this special condition. In general, the area where construction activities must cease shall be 1) no less than a 50-foot wide buffer around the cultural deposit; and 2) not larger than the development phase within which the discovery is made.

- C. An applicant seeking to recommence construction following discovery of the cultural deposits shall submit a Significance Testing Plan for the review and approval of the Executive Director. The Significance Testing Plan shall identify the testing measures that will be undertaken to determine whether the cultural deposits are significant. The Significance Testing Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), and the Most Likely Descendent (MLD) when State Law mandates identification of a MLD. The Executive Director shall make a determination regarding the adequacy of the Significance Testing Plan within 10 working days of receipt. If the Executive Director does not make such a determination within the prescribed time, the plan shall be deemed approved and implementation may proceed. Once a plan is deemed adequate, the Executive Director will make a determination regarding the significance of the cultural deposits discovered.
- (1) If the Executive Director approves the Significance Testing Plan and determines that the Significance Testing Plan's recommended testing measures have a de minimis impact on the cultural deposits, in nature and scope, the significance testing may commence after the Executive Director informs the permittee of that determination.
 - (2) If the Executive Director approves the Significance Testing Plan but determines that the changes therein do not have a de minimis impact on the cultural deposits, significance testing may not commence until after the Commission approves an amendment to this permit.
 - (3) Once the measures identified in the significance testing plan are undertaken, the permittee shall submit the results of the testing to the Executive Director for review and approval. The results shall be accompanied by the project archeologist's recommendation as to whether the findings should be considered significant. The project archeologist's recommendation shall be made in consultation with the Native American monitors and the MLD when State Law mandates identification of a MLD. If there is disagreement between the project archeologist and the Native American monitors and/or the MLD, both perspectives shall be presented to the Executive Director. The Executive Director shall make the determination as to whether the deposits are significant based on the information available to the Executive Director. If the deposits are found to be significant, the permittee shall prepare and submit to the Executive Director a supplementary Archeological Plan in accordance with subsection E of this condition and all other relevant subsections. If the deposits are found to be not significant, then the permittee may recommence grading in accordance with any measures outlined in the significance testing program.
- D. An applicant seeking to recommence construction following a determination by the Executive Director that the cultural deposits discovered are significant shall submit a Supplementary Archeological Plan for the review and approval of the Executive Director. The Supplementary Archeological Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), the Most Likely Descendent (MLD) when State Law mandates identification of a MLD, as well as others identified in subsection E of this condition. The supplementary Archeological Plan shall identify proposed investigation and mitigation measures. If there is disagreement between the project archeologist and the Native American monitors and/or the MLD, both perspectives shall be presented to the Executive Director. The range of

investigation and mitigation measures considered shall not be constrained by the approved development plan. Mitigation measures considered shall range from in-situ preservation to recovery and/or relocation. A good faith effort shall be made to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, capping, and creating an open space area around the cultural resource areas. In order to protect cultural resources, any further development may only be undertaken consistent with the provisions of the final, approved, Supplementary Archaeological Plan.

- (1) If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures have a de minimis impact on cultural deposits, in nature and scope, construction may recommence after the Executive Director informs the permittee of that determination.
 - (2) If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein do not have a de minimis impact on cultural deposits, construction may not recommence until after the Commission approves an amendment to this permit.
- E. Prior to submittal to the Executive Director, all plans required to be submitted pursuant to this special condition, shall have received review and written comment by a peer review committee convened in accordance with current professional practice, and representatives of Native American groups with documented ancestral ties to the area. Names and qualifications of selected peer reviewers shall be submitted for review and approval by the Executive Director. The plans submitted to the Executive Director shall incorporate the recommendations of the peer review committee and the Native American groups with documented ancestral ties to the area. Furthermore, upon completion of the peer review process, and prior to submittal to the Executive Director, all plans shall be submitted to the California Office of Historic Preservation (OHP) and the NAHC for their review and an opportunity to comment. The plans submitted to the Executive Director shall incorporate the recommendations of the OHP and NAHC. If the OHP and/or NAHC do not respond within 30 days of their receipt of the plan, the requirement under this permit for those entities' review and comment shall expire, unless the Executive Director extends said deadline for good cause. All plans shall be submitted for the review and approval of the Executive Director.
- F. At the completion of the archaeological grading monitoring and mitigation, the applicant shall prepare a report, subject to the review and approval of the Executive Director, which shall include but not be limited to, detailed information concerning the quantity, types, location, and detailed description of any cultural resources discovered on the project site, analysis performed and results and the treatment and disposition of any cultural resources that were excavated. The report shall be prepared consistent with the State of California Office of Historic Preservation Planning Bulletin #4, "Archaeological Resource Management Reports (ARMR): Recommended Contents and Format". The final report shall be disseminated to the Executive Director and the South Central Coastal Information Center at California State University at Fullerton.

G. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

9. **CURATION OF ARTIFACTS AND DISSEMINATION OF CULTURAL INFORMATION**

PRIOR TO ISSUANCE OF THIS PERMIT, the applicant shall submit for the review and approval of the Executive Director, evidence of a written agreement with a curation facility that has agreed to accept any artifacts recovered from the project site. Any such artifacts shall be curated within Orange County, at a facility meeting the established standards for the curation of archaeological resources. Further, the applicant shall request in the agreement that the facility receiving the collection prepare an appropriate display of significant materials so that the public can view the investigation results and benefit from the knowledge gained by the discoveries.

If permanent curation facilities are not available, artifacts may be temporarily stored at a facility such as the Anthropology Department of the California State University at Fullerton until space becomes available at a facility meeting the above standards. The applicant shall submit written proof of acceptance from the above curation or temporary facility of 100 percent of the recovered artifacts prior to issuance of the permit.

PRIOR TO ISSUANCE OF THIS PERMIT the applicant shall submit, for the review and approval of the Executive Director, a written agreement to distribute the final reports required in Special Condition 8F to interested area institutions, vocational groups and Native American tribal units within Southern California, as well as to appropriate City, County and State agencies.

10. **REVISIONS TO TENTATIVE TRACT MAP 15377**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, revised Tentative Tract Maps 15377 and 15419 **stamped Approval in Concept by the City of Huntington Beach**, reflecting the following changes:

- A. Reconfiguration of proposed TTM 15377 such that Lots O, P, Q, and R (Paseo Park) are combined into a single, lettered lot.
- B. Reconfiguration of proposed TTM 15377 such that Lots T, U, V and Lot W (EPA trail connecting the active park and the levee) are combined into a single, lettered lot.
- C. Reconfiguration of proposed TTM 15377 such that Lots C and D (public sidewalk and connection between A Street and C Street) are combined into a single, lettered lot.
- D. Reconfiguration of proposed TTM 15377 such that Lots BB and CC are combined into a single, lettered lot, Lot BB.

- E. All lots proposed to include public access and recreational uses shall be identified as such on the TTM.
- F. All lots proposed for ESHA, wetland, habitat uses shall be identified as such on the TTM.
- G. Lots proposed to be offered for dedication in fee for public works facilities and/or public recreation shall be identified on the TTM and shall identify the dedication's use, including the following lots:
 - i. Lot A, TTM 15377: Active Park dedicated to the City of Huntington Beach;
 - ii. Lot S, TTM 15377: Passive Park dedicated to City of Huntington Beach;
 - iii. Lot B, TTM 15377: Sewer Lift Station dedicated to City of Huntington Beach;
 - iv. Lot X, TTM 15377: Water Quality Natural Treatment System dedicated to City of Huntington Beach;
 - v. Lot Y, TTM 15377: Vegetated Flood Protection Feature dedicated to County of Orange.
- H. Public amenities proposed to be offered for dedication as easements to the City of Huntington Beach shall be identified on the TTM and shall include the easement's use, including the following lots:
 - i. Lot C and Lot D [to be combined and re-lettered] for public, recreational and pedestrian trail use;
 - ii. Lots O, P, Q, and R of TTM 15377 [to be combined and re-lettered accordingly]: Paseo Park trail;
 - iii. Lots N, TTM 15377: Levee Connector trail
 - iv. Lots T, U, V and Lot N, TTM 15377[to be combined and re-lettered accordingly]: EPA trail connecting the Active Park to the levee.
- I. Lots dedicated in fee to the Homeowner's Association (as proposed to be created by the applicant and as described in Special Condition 13 below) to be managed and maintained solely for wetland and habitat creation, restoration and preservation shall be identified on the TTM and include:
 - i. Lot Z, TTM 15377: ESHA and Wetland Restoration area;
 - ii. Lot AA, TTM 15377: restoration/creation EPA Wetland, ESHA and Wetland Buffer area;
 - iii. Lots BB and CC [to be combined and re-lettered accordingly], TTM 15377: ESHA, restoration/creation EPA wetland, habitat restoration and continuation of the informal public trail);
 - iv. Lot 1, TTM 15419: Wetland and Habitat.
- J. After the above revisions have been incorporated and prior to recordation of the final tract maps, submit to the Executive Director for review and approval, the revised versions Tract Map Nos. 15377 and 15419.
- K. After recordation, submit Final Tract Map Nos. 15377 and 15419 to the Executive Director.

11. OFFER TO DEDICATE IN FEE FOR HABITAT, PUBLIC INFRASTRUCTURE, AND PUBLIC ACCESS & RECREATION PURPOSES

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, and in order to implement the permittee's proposal, the permittee shall submit to the Executive Director,

for review and approval, a proposed document(s) irrevocably offering the dedication of fee title over the areas identified below to a public agency(ies) or non-profit entity(ies) acceptable to the Executive Director, for public access, passive and active recreational use, habitat enhancement, and public trail purposes, as appropriate based on the restrictions set forth in these special conditions. Once the documents irrevocably offering to dedicate the areas identified below are accepted by the Executive Director, and also **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit evidence that it has executed and recorded those documents, completing the offers to dedicate. The land shall be offered for dedication subject to the restrictions on the use of that land set forth in the special conditions of this permit, and the offer to dedicate shall reflect that fact. The offer shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The entirety of the following land shall be offered for dedication:

- 1) TTM 15377 Lot A Active Park;
- 2) TTM 15377 Lot S Passive Park;
- 3) TTM 15377 Lot B Sewer Lift Station;
- 4) TTM 15377 TTM 15377 Lot X Water Quality Natural Treatment System;
- 5) TTM 15377 Lot Y Vegetated Flood Protection Feature, Vista Point and Vista Point trail;
- 6) TTM 15377 Lot C and Lot D [to be combined and re-lettered] public recreational and pedestrian trail use;
- 7) TTM 15377 Lot Z (EPA & AP wetland areas) for wetland and habitat creation and restoration as approved by this permit;
- 8) TTM 15377 Lot AA (ESHA, wetland and buffer areas) for habitat creation and restoration as approved by this permit;
- 9) TTM 15377 Lot BB and Lot CC [to be combined and re-lettered] (ESHA, wetland and buffer areas) for habitat creation and restoration and continued use of informal trail as approved by this permit
- 10) TTM 15377 Lot X for Natural Treatment System as approved by this permit;
- 11) TTM 15377 Lot Y for Vegetated Flood Protection Feature and , Public Vista Point and Public Vista Point trail
- 12) TTM 15419 Lot 1 (ESHA and CP wetlands) for wetland and habitat creation, restoration, and preservation, as approved by this permit

12. OFFER TO DEDICATE EASEMENTS FOR PUBLIC TRAILS AND FOR HABITAT CREATION & RESTORATION

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall execute and record document(s) in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency(ies) or non-profit entity(ies) acceptable to the Executive Director, easements for public pedestrian and passive recreational use of the trails as proposed by the permittee and as approved by this permit:

- 1) Lot T, Lot U, Lot V, and Lot W [to be combined and re-lettered] for public pedestrian, recreational, and trail use;
- 2) Lot O, Lot P, Lot Q, and Lot R [to be combined and re-lettered] for public pedestrian, recreational, and trail use;
- 3) Lot C and Lot D [to be combined and re-lettered] for public, recreational and pedestrian trail use;
- 4) Lot N for public, recreational and pedestrian trail use;
- 5) All streets and sidewalks of the proposed development.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall execute and record document(s) in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to the homeowners association proposed in conjunction with the approval of this coastal development permit, easements for habitat restoration (as described in the approved final habitat management plan approved by this permit) of the following areas:

- 1) TTM 15377 Lot Z for wetland and habitat creation, restoration, maintenance and preservation as approved by this permit;
- 2) TTM 15377 Lot AA for habitat creation, restoration, maintenance and preservation as approved by this permit;
- 3) TTM 15377 Lot BB and Lot CC [to be combined and re-lettered as appropriate] for habitat creation, restoration, maintenance and preservation as approved by this permit and for continuation of the informal public trail;
- 4) TTM 15419 Lot 1 for wetland and habitat creation, restoration, maintenance and preservation as approved by this permit.

C. The recorded document(s) shall include legal descriptions of both the permittee's entire parcel(s) and the easement areas. The recorded document(s) shall reflect that development in the offered area is restricted as set forth in the Special Conditions of this permit. The offer shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The applicant's proposal for the lands to be offered for public trails and habitat creation and restoration are generally depicted on the plan titled Site Plan, Revised Tentative Tract Map. 15377 and 15419, City of Huntington Beach, prepared by Hunsaker & Associates and dated May 24, 2011 and received in the Commission's offices on July 25, 2011.

D. The lands identified in this dedication shall be maintained in accordance with the approved final Habitat Management Plan and with the approved final Public Amenities & Trail Management Plan required in the special conditions of this coastal development permit.

13. COVENANTS, CONDITIONS, AND RESTRICTION (CC&R'S) AND FINAL TRACT MAPS

A. Consistent with the applicant's proposal, the applicant shall establish covenants, conditions and restrictions (CC&Rs), or an equivalent thereof, for the proposed development to address ownership and management of all public streets and sidewalks of the subdivision, public trails, public parks, habitat restoration and preservation areas, environmentally sensitive habitat areas, and common landscaped areas. The CC&Rs shall reflect all applicable requirements of this coastal development permit, including but not limited to the specifications concerning the development of the parks, trails and habitat creation and restoration areas, and residential landscaping as described in Special Condition 15 below and a prohibition on the use of rodenticides, as proposed by the applicant and as conditioned by this permit. The CC&Rs shall include a provision specifically stating that the CC&Rs shall not be modified, amended or changed in any manner that would render them inconsistent with any special condition and/or the findings in coastal development permit number 5-11-068, approved by the Coastal Commission at its October 11, 2012 hearing; any amendment made by the HOA modifying the CC&Rs in a manner that renders the modification inconsistent with any special condition and/or the findings in coastal development permit number 5-11-068 shall be null and void.

B. As soon as a homeowner's association or similar entity comprised of the individual owners of the 111 proposed residential lots is activated, the applicant shall transfer title of the area covered by the Habitat Management Plan and public access and recreation areas covered by the Public Amenities and Trail Management Plan to that entity

C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, and prior to recordation of any CC&Rs, or tract maps associated with the approved project, proposed versions of said CC&Rs and tract maps shall be submitted to the Executive Director for review and approval. The Executive Director's review shall be for the purpose of ensuring compliance with the standard and special conditions of this coastal development permit, including ensuring that, pursuant to paragraph A of this condition, the CC&Rs also reflect the ongoing restrictions and obligations imposed by these conditions. The restriction on use of the land cited within the special conditions of this permit shall be identified on the Tract Map(s), where appropriate, as well as being placed in the CC&Rs.

D. Simultaneous with the recording of the final tract map(s) approved by the Executive Director, the permittee shall record the covenants, conditions and restrictions approved by the Executive Director, against the property. The applicant shall submit a recorded copy of the covenants, conditions and restrictions within 30 days of their recordation to the Executive Director. The CC&Rs may not be modified in a manner that would render them inconsistent with any provision of this permit or of any plan or other document approved by the Executive Director pursuant to the conditions of this permit. Any change that would not create a direct conflict between the CC&Rs and the provisions of this permit or of any approved plan or other document shall be submitted to the Executive Director, in writing, for a determination as to whether such change requires approval of the Coastal Commission. The Executive Director shall have 90 days in which to communicate a determination to the Homeowners' Association. If, within that 90 day period, the Executive Director indicates that Commission approval is required, no such change shall

occur until such approval is secured. Otherwise, no Coastal Commission approval shall be required. The CC&Rs shall indicate these restrictions within their terms.

14. LANDSCAPING PLAN – RESIDENTIAL AREA

- A. The applicant shall conform to the landscape plan prepared by Fred Radmacher Associates, Inc. dated 11/18/08 as revised through 1/7/10 for the common areas within the residential land use designation and zone only (Lots E, F, G, H, I, J, K, L, and M; and Lots O, P, Q, and R [Lots O, P, Q, and R to be combined and re-lettered as appropriate]); and Lots C, D and N, received in the South Coast District Office on May 4, 2010 showing vegetated landscaped areas consisting of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. Existing vegetation that does not conform to the above requirements shall be removed.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit, for the review and approval of the Executive Director, a revised landscape plan for the common areas within the residential land use designation and zone only (Lots E, F, G, H, I, J, K, L, and M; and Lots O, P, Q, and R [Lots O, P, Q, and R to be combined and re-lettered as appropriate]) deleting the area subject to the approved Habitat Management Plan.
- C. All future landscaping of residential lots (Lots 1 through 111) shall consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized or allowed to persist within the property. Existing vegetation that does not conform to the above requirements shall be removed.
- D. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit, for the review and approval of the Executive Director, landscape palette lists to be incorporated into the landscaping guidelines for future residential development. The approved landscape palette list shall identify: 1) the native plant species that may be planted on the residential lots; 2) a list of the non-native, non-invasive drought tolerant common garden plant species that may be planted on the residential lots; 3) the non-native, non-invasive drought tolerant turf that may be planted within approved turf areas in the parks, and 4) the invasive plant species that are prohibited from use anywhere within the development. The landscape palette for the development shall be consistent with the Approved Plant List for Non-Habitat/Non-Buffer Areas as reviewed and approved by the Executive Director.

- E. These lists shall remain available for consultation and shall be recorded in the covenants, conditions and restrictions as required by Special Condition 13. Additions to or deletions from these lists may be made by the Executive Director of the California Coastal Commission, in consultation with the project's restoration ecologist.
- F. No deviations from the list shall occur in the plantings on the site without an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.
- G. **Monitoring.** Five years from the date of the completion of the installation of landscaping of the common areas as required in these special conditions, the permittee shall submit, for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed landscape architect or qualified resource specialist, that certifies the on-site landscaping is in conformance with the requirements of the special conditions of this permit and the landscape plans approved pursuant to the special conditions of this permit. The monitoring report shall include photographic documentation of plant species and plant coverage. If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the permittee, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscape plan must be prepared by a licensed landscape architect or a qualified resource specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. The permittee or successor in interest shall implement the supplemental landscaping plan approved by the Executive Director and/or seek an amendment to this permit if required by the Executive Director.
- H. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

15. CONSTRUCTION STAGING AREA AND FENCING

A. All construction plans and specifications for the project shall indicate that impacts to wetlands and environmentally sensitive habitat areas shall be avoided and that the California Coastal Commission has not authorized any impact to wetlands or other environmentally sensitive habitat areas. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit a final construction staging and fencing plan for the review and approval of the Executive Director which indicates that the construction in the construction zone, construction staging area(s) and construction corridor(s) shall avoid impacts to wetlands, ESHA, and other sensitive habitat areas consistent with this approval. The plan shall include the following requirements and elements:

- 1) Wetlands and any environmentally sensitive habitats shall not be affected in any way, except as specifically authorized in this permit.

- 2) Prior to commencement of construction, temporary barriers shall be placed at the limits of residential grading adjacent to the area subject to the approved final Habitat Management Plan which includes wetlands and all ESHA. Solid physical barriers shall be used at the limits of grading adjacent to all ESHA. Barriers and other work area demarcations shall be inspected by a qualified biologist to assure that such barriers and/or demarcations are installed consistent with the requirements of this permit. All temporary barriers, staking and fencing shall be removed upon completion of construction.
- 3) No grading, stockpiling or earth moving with heavy equipment shall occur within ESHA, wetlands or their designated buffers, except as noted in the final Habitat Management Plan approved by the Executive Director.
- 4) The plan shall demonstrate that:
 - a. Construction equipment, materials or activity within the area subject to the approved final Habitat Management Plan shall be the minimum necessary to accomplish the goals outlined in the approved final Habitat Management Plan.
 - b. Deep grading and construction within the residential area of the project shall avoid adverse impacts upon the adjacent area subject to the approved final Habitat Management Plan; and
 - c. Construction equipment, materials, or activity shall not be stored within any ESHA wetlands or their buffers and shall not be placed in any location that would result in impacts to wetlands, ESHA or other sensitive habitat;
- 5) The plan shall include, at a minimum, the following components:
 - a. A site plan that depicts:
 - i. Limits of the staging area(s)
 - ii. Construction corridor(s)
 - iii. Construction site
 - iv. Location of construction fencing and temporary job trailers with respect to existing wetlands and sensitive habitat
 - v. Compliance with the approved Water Quality Management Plan prepared by Hunsaker and Associates, dated 9/11/09.
 - vi. Measures to be employed to avoid adverse impacts on wetlands, ESHA, and other sensitive habitat.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

16. LIGHTING

A. All lighting within the development shall be directed and shielded so that light is directed away from wetlands, ESHA, and other habitat and buffer areas. Floodlamp shielding and/or sodium bulbs shall be used in developed areas to reduce the amount of stray lighting into wetland and habitat creation and restoration areas. Furthermore, no skyward-casting lighting shall be used. The lowest intensity lighting shall be used that is appropriate to the intended use of the lighting. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit, for the review and approval of the Executive Director, a lighting plan to protect the wetlands, ESHA, and other habitat and buffer areas from light generated by the project. The lighting plan to be submitted to the Executive Director shall be accompanied by an analysis of the

lighting plan prepared by a qualified biologist which documents that it is effective at preventing lighting impacts upon adjacent wetlands and environmentally sensitive habitat and buffer areas.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

17. WALLS, FENCES, GATES, SAFETY DEVICES AND BOUNDARIES IN OPEN SPACE HABITAT AREAS

A. As proposed, all fences, gates, safety devices and boundary treatments within or controlling access to wetlands, environmentally sensitive habitat areas (ESHA), and buffer areas, shall be designed to allow the free ingress, egress and traversal of the habitat areas of the site by wildlife, including the coyote. Where the backyards of residences (Lots 34 through 41) abut the EPA trail area lots (Lots T, U, V, W [to be combined and re-lettered as appropriate] of TTM 15377), there shall be walls, fences, gates, safety devices and boundary treatments, as necessary, to contain domestic animals within the residential development and along the approved trails and exclude such animals from sensitive habitat areas.

B. The permittee shall undertake development in accordance with the approval final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

18. WATER QUALITY MANAGEMENT PLAN

A. The applicant shall implement the Water Quality Management Plan (WQMP), as proposed and described in the document prepared by Hunsaker & Associates, dated 9/11/09, including the recommendations by GeoSyntec in the document titled Parkside Estates, Tentative Tracts 15377 and 15419, Water Quality Evaluation (Final), dated February 2009, and attached as Appendix E to the WQMP. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit or a new coastal development permit unless the Executive Director determines that no amendment is legally required.

B. Offer of dedication to the City of Huntington Beach of the Natural Treatment System proposed within Lot X shall be made upon completion of construction by the permittee of the Natural Treatment System and prior to occupancy of any proposed project residence.

19. CONFORMANCE OF DESIGN AND CONSTRUCTION PLANS TO GEOTECHNICAL REPORT

A. All final design and construction plans, including all overexcavation and recompacting plans, all dewatering, foundations, grading and drainage plans, shall be consistent with all recommendations contained in the following documents. If recommendations have been

revised in later reports, the final design and construction plans shall be with the most recent version of all recommendations.

1. Pacific Soils Engineering (November 25, 2008) Updated Geotechnical Report and 40-Scale Grading Plan Review, Parkside Estates, Tract 15377, City of Huntington Beach, California;
2. Pacific Soils Engineering (February 5, 2009) Response to City of Huntington Beach, Review Comment, Tentative Tract Maps 15377 and 15419, Parkside Estates, City of Huntington Beach, California;
3. Pacific Soils Engineering (May 28, 2009) Update of Groundwater Monitoring Program, Parkside Estates, City of Huntington Beach, California;
4. Pacific Soils Engineering (September 14, 2009) Cover Letter to Accompany Dewatering Review, Tentative Tract Map 15377, Parkside Estates, City of Huntington Beach, California;
5. Pacific Soils Engineering and Hunsaker & Associates (September 1, 2009) Rough Grading Plan for Tentative Tract 15377 and Tentative Tract 15419; Approval in Concept 9/4/09, Planning Division, City of Huntington, Nine Sheets;
6. Hunsaker & Associates (9/18/09) Orange County OC Public Works Department, Plans for Construction of a portion of East Garden Grove – Wintersburg Channel, OCFCD Facility No. CO5 from 2100 feet downstream of Graham St to Downstream of Graham St. and Vegetated Flood Control Facility (VFCD) from North Side of Wintersburg Channel to 600 feet North of Wintersburg Channel, Nine Sheets;
7. Hunsaker & Associates (9/18/09) Storm Drain Improvement Plans for Tract 15377, 2 Sheets;
8. Hunsaker & Associates (1/12/10) Rough Grading Plans;
9. Hunsaker & Associates (5/20/11) Orange County OC Public Works Department, Plans for Construction of a portion of East Garden Grove – Wintersburg Channel, OCFCD Facility No. CO5 from 2100 feet downstream of Graham St to Downstream of Graham St. and the Vegetated Flood Control Feature (VFCD) from North Side of Wintersburg Channel to 600 feet North of Wintersburg Channel, Nine Sheets;
10. LSA Associates, Inc., (July 14, 2011) Revised Geotechnical and Archaeological Monitoring Report, Project No. SHO1001 Phase 1;
11. Alta California Geotechnical, Inc. (July 21, 2011) “Transmittal of Fill Removal and Replacement Detail, Vegetated Flood Protection Feature, Parkside Estates”.

B. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for the Executive Director's review and approval, evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluations approved by the California Coastal Commission for the project site.

- C. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

20. FUTURE DEVELOPMENT RESTRICTION

This permit is only for the development described in Coastal Development Permit No. 5-11-068. Pursuant to Title 14, California Code of Regulations, sections 13250(b)(6) and 13253(b)(6), the exemptions otherwise provided in Public Resources Code, section 30610(a) and 30610(b) shall not apply to any of following lots of proposed TTM 15377: each of the lettered lots, and the following numbered/residential lots: Lots 2 and 3, Lots 23 & 24, Lots 34 through 41 inclusive, Lot 1 and Lot 111. In addition, the exemptions cited above shall not apply to all of TTM 15419 in its entirety. Accordingly, any future improvements on each of the lettered lots or to any of the single family residential lots listed in this condition for TTM 15377 or to any portion of TTM 15419, including, but not limited to, repair and maintenance identified as requiring a permit in Public Resources Code, section 30610(d) and Title 14, California Code of Regulations, sections 13252(a)-(b), shall require an amendment to Permit No. 5-11-068 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government, unless the Executive Director of the Commission determines that no amendment or new permit is required.

21. ASSUMPTION OF RISK

By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards from flooding, tsunami, liquefaction and earth movement; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

22. LIABILTIIY FORCOSTS AND ATTORNEYS FEES

The Permittees shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the applicant against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

23. COMPLIANCE

All development shall occur in strict compliance with the proposal as set forth in the application for permit, subject to any changes approved in this permit and subject to any approved revised plans provided in compliance with the Special Conditions of this coastal development permit. Any proposed change from the approved plans must be reviewed and approved by the Executive Director to determine if an amendment or new permit is necessary.

24. LOCAL GOVERNMENT APPROVAL

Except as modified by the conditions of this coastal development permit, all requirements and conditions approved and imposed by the City of Huntington Beach upon the proposed project remain in effect.

25. WITHDRAW PROJECT APPROVED BY LOCAL GOVERNMENT

By acceptance of this permit, the applicant agrees to withdraw the application for development of the subject site approved by the local government and to abandon and extinguish all rights and/or entitlements that may exist relative to the City's approval of a project at the subject site that is the subject of Coastal Commission Appeal No. A-5-HNB-02-376.

26. GROUNDWATER AND SUBSIDENCE MONITORING

- A. Prior to issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a groundwater and subsidence monitoring plan for the proposed development. The monitoring plan must include the requirement that if the monitoring reveals that drawdown to -8 feet (MSL NAVD 88) has occurred along the northern property line or to -19 feet (MSL NAVD 88) at the southeast corner of the site and/or that ¼ inch of subsidence has occurred either at the northern property line or in the southeast corner of the site all groundwater pumping shall cease immediately. In addition, the monitoring plan shall, at a minimum, establish methods for monitoring the groundwater drawdown and subsidence at the site along the northern property line and at the southeast corner of the site and the minimum number and location of monitoring wells. The methods of monitoring must include, but are not limited to, the frequency of monitoring, the party(ies) responsible for conducting the monitoring, preparation of a mitigation plan addressing any identified impacts resulting from site dewatering and/or subsidence, and a time frame for preparing and submitting the required mitigation plan to the Executive Director. The mitigation plan shall be required if any of the above thresholds are met, and shall be submitted, pursuant to a request for an amendment to this coastal development permit. The mitigation plan shall address any impacts arising from the identified groundwater drawdown and/or subsidence.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

27. INSPECTIONS

The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.

IV. FINDINGS AND DECLARATIONS

NOTE: The findings for denial of the Land Use Plan as submitted are incorporated as if fully set forth herein (HNB-MAJ-1-06, 5/10/07). In addition, the findings adopted by the Commission in approving the Land Use Plan Amendment for the subject site (HNB-MAJ-1-06, 11/14/07), and the findings adopted by the Commission in approving the Implementation Plan Amendment with suggested modifications for the subject site (HNB-MAJ-2-10, 10/13/10) are also hereby incorporated by reference as though fully set forth herein.

A. Project Description

The applicant proposes to subdivide an approximately 50 acre site to create 111 new numbered lots (proposed Lots 1 – 111) in order to accommodate construction of 111 new single family residences. Proposed lot sizes range from 5500 square feet to 11,742 square feet. The sizes of the proposed residences range from 3109 square feet to 3704 square feet (see exhibit 19). Also proposed are public roads, sewer system and replacement sewer lift station, and storm drain system. Related dry utilities to serve the proposed residences including water, gas, and electric are also proposed. The applicant further proposes developing landscaped open space pockets within the residential area to be maintained by the proposed Homeowners Association (HOA), as well as construction and dedication to the City of a one (1) acre public active park (proposed Lot A) which is proposed to be maintained and managed by the HOA. A public trail system throughout the development linking Graham Street, the subject site and surrounding area with the existing public trails within and surrounding the Bolsa Chica Ecological Reserve. The above described development is proposed to be constructed within the approximately 26.7 acre area of the subject site land use designated and zoned for low density residential development. See Exhibit 4 for the layout of the proposed subdivision.

Construction and establishment of habitat and wetland preservation, creation, and restoration, as well as a 0.6 acre passive public park (proposed Lot S) are proposed within the 23.1 acre area land use designated Open Space Conservation and zoned Coastal Conservation. In addition, within this conservation area, construction of a flood protection feature known as the Vegetated Flood Protection Feature (VFPP) is proposed at the western side of the subject site within the 1.5 acre proposed Lot Y. The VFPP is proposed to be dedicated in fee to the County of Orange, Public Works Department. Also proposed within the conservation area is construction of a Natural Treatment System (NTS). The NTS is proposed within the 1.6 acre proposed Lot X. The NTS is proposed to be dedicated in fee to the City of Huntington Beach. The passive park, VFPP, and NTS are specifically identified in the certified land use plan as allowable uses within the conservation area on site.

The applicant also proposes, within the Orange County Flood Control right-of-way along the East Garden Grove Wintersburg flood control channel (known also as the Co5): reconstruction of the north levee from Graham Street west to the proposed VFPP; a public Class 1 bike and pedestrian trail atop the reconstructed north levee; installation/construction of storm drain pipe crossing under the flood control channel, improvements to the south levee as needed to accommodate the storm drain pipe crossing, and improvements to the City’s Slater Pump station. Removal of the Slater bridge was also originally proposed, but that was included in Orange County’s approved coastal development permit 5-09-209 for repairs and improvements to the south levee of the Co5 channel

The subject site was the subject of City of Huntington Beach Land Use Plan Amendment 1-06 (Parkside) and Implementation Plan Amendment 2-10 (Parkside).

1. Subdivision

The subject site is currently comprised of 3 lots: one approximately 45.34 acre lot bounded on the east by Graham Street, on the north by residential development that fronts Kennilworth Drive, on the south by the East Garden Grove Wintersburg flood control channel (Co5), and on the west by the second lot; the second lot is approximately 1.0 acre and is bounded by the first lot to the east, the Co5 flood control channel to the south and the third lot to the west; and the third lot is approximately 3.5 acres and is bounded by the second lot to the east, the Co5 flood control channel to the south, and off-site open space to the west and north (see Exhibit 10).

The proposed development includes two tentative tract maps: Tentative Tract Map (TTM) No. 15419 and Tentative Tract Map (TTM) No. 15377. Proposed TTM 15419 would create a single, approximately 4.8 acre parcel for open space use in the westernmost corner of the subject site. The parcel that is the subject of TTM No. 15419 is located entirely within a portion of the area designated/zoned Open Space Conservation/Coastal Conservation. The southern eucalyptus environmentally sensitive habitat area (ESHA) and the wetlands known as the CP wetlands are located within this area. Uses proposed within proposed Lot 1 of TTM 15419 include: restoration of the wetland area believed to have been filled without a permit in the early late 1970s/early 1980s; and preservation of the area known as the CP wetland and the area known as the southern eucalyptus ESHA will be preserved. The remaining area within proposed Lot 1 is proposed be wetland buffer area and restored coastal sage scrub habitat. This area is included within the proposed Habitat Management Plan (HMP) described in greater detail below.

Proposed TTM No. 15377 includes all the other proposed lots including 111 numbered single family residential lots and 29 lettered lots. The residential lots will occupy 16 acres. Proposed lettered lots are as follows (note: all lettered lots are proposed to be dedicated on the tract map):

Lot No.	Use	Dedicated to	Maintained By	Conveyed via	Area (acres)
1 – 111 TTM	Single Family Residential Lots	Private	Private	N/A	16 Acres (total)

15377	(5500 sq.ft. min.)				
A TTM 15377	Active Park	City in fee	HOA and City	Offer to Dedicate (OTD) in fee to City; dedication on tract map	1 Acre
B TTM 15377	Sewer Lift Station; 10 foot wide public access easement	City in fee	City	OTD in fee for sewer lift station & 10" wide public access; dedication on tract map	0.04 Acre
C TTM 15377	(1)Sidewalk; (2) Public trail/access path/landscaping	(1) HOA in fee (2) OTD easement to the City	(1)HOA and City (2) HOA	CC&Rs; dedication on tract map (2) OTD; dedication on trail map	
D TTM 15377	Public trail from Lot C to interior street	HOA in fee; trail OTD to the City	HOA	OTD; dedication on tract map	
E – M TTM 15377	Landscape Lots Within residential common area	HOA in fee	HOA	Deed restriction; CC&Rs; dedication on tract map	0.5 acre
O – R TTM 15377	(1) Paseo Park (2) 10' wide public access easement	(1) HOA (in fee) (2) OTD to City	HOA	deed restriction; CC&Rs; dedication on tract map (2) OTD easement to the City; dedication	1.8 Acres

				on tract map	
N TTM 15377	Pedestrian Access (levee trail connectors) & Drainage	HOA in fee	HOA	OTD trail easement to the City; dedication on tract map	0.1 Acre
W TTM 15377	Pedestrian Access (levee to EPA trail)	HOA in fee	HOA	OTD trail easement to City; CC&Rs; dedication on tract map	
S TTM 15377	Passive Park	City in fee	HOA and City	Offer to Dedicate in fee to City; Dedication on tract map	0.6 Acre
T, U, V TTM 15377	Open Space Public Access (EPA Trail)	HOA in fee	HOA	OTD easement to City, CC&Rs; dedication on tract map	0.6 Acre
X TTM 15377	NTS	City in fee	City	Offer to Dedicate in fee to City; Dedication on tract map	1.6 Acres
Y TTM 15377	VFPP	County in fee	County	Offer to Dedicate in fee to County; Dedication on tract map	1.5 Acres
Z TTM 15377	Wetland Area Wetland Restoration/Creation Includes Combined	HOA in fee	HOA	Deed restriction; CC&Rs; dedication	5.1 Acres

	EPA & AP wetland areas			on tract map	
AA TTM 15377	Restoration/Creation AP/EPA Wetland, Buffer Area	HOA in fee	HOA	Deed restriction, CC&Rs; dedication on tract map	5.4 Acres
BB TTM 15377	Open Space/Conservation Restoration/Creation AP/EPA Wetland, Habitat Restoration/Preservation Wetland and ESHA buffer. Includes northern eucalyptus ESHA	HOA in fee	HOA	Deed restriction, CC&Rs, dedication on tract map	3.7
CC TTM 15377	Open Space Informal Trail at western end of northern property line	HOA in fee	HOA	Deed restriction, CC&Rs; dedication on tract map	0.4 Acres
Street "A"	Public streets & sidewalks; entry landscaping	Street "A" dedicated in fee to City; landscape area to HOA;	landscape maintained by HOA	dedication on tract map; CC&Rs (entry landscaping)	
Streets "B" – "F" TTM 15377	Public streets & sidewalks	City	City	Dedication on tract map	

Proposed TTM No. 15419 includes:

Lot No.	Use	Dedicated to	Maintained By	Conveyed via	Area in Acres
Lot 1 TTM 15419	Open Space Habitat / Wetland Restoration/Preservation; Includes Southern Eucalyptus ESHA; CP Wetland	HOA in fee	HOA	Deed restriction; dedication on tract map; CC&Rs	4.8 acres

Aside from the NTS (Lot X), Active Park (Lot A), Passive Park (Lot S) and sewer lift station (Lot B) all to be dedicated in fee to the City of Huntington Beach, and the VFPP (Lot Y) proposed to be dedicated to the County of Orange, all other lettered lots will be transferred in fee to the proposed HOA for ownership and maintenance.

2. Residences

The proposed project includes construction of 111 single family residences, ranging in size from 3109 square feet to 3704 square feet on lots ranging in size from 5500 square feet to 11,742 square feet. The residences are proposed to be two stories, approximately 24 feet above finished grade with attached either two or three car garages. (See exhibit 19)

3. Subdivision Entry

The main and vehicular entry into the subdivision is located at Graham Street at the northeastern side of the property. A landscaped median is proposed as well as entry monumentation and “enhanced paving”. Enhanced paving would involve decorative stamping and/or coloring of the concrete paving within the entry area streets. Southern Magnolia and Coral trees are proposed within the median, as well as shrubs and ground cover not currently identified. Also proposed in the median are a stone planter and a 5½ feet high by 15 feet long monument sign wall. The monument sign wall is proposed to say Parkside and includes two lanterns on either site. Also proposed are two entry arbors on either side of the road leading into the development. The entry arbors are proposed to be 10 feet tall, 12½ feet wide and 22 feet deep. The arbors are proposed to be open on the sides, with a total of six stone columns each. The roof is proposed to be wood and beam, with lattice on top. A 1½ by 1 foot public access trail sign is proposed atop a 5’6” post on the north side of the entry. Lettering on the proposed public access sign is approximately 2 inches high. Southern Magnolia and Coral trees are also proposed in the side entry areas. Around the proposed entry arbors, queen palms and turf grass (seashore paspalum) are proposed to be planted.

4. Other Proposed Development & Landscaping Within Residential Area

Each residential lot is proposed to be planted with one each of the following types of trees: Sweet Bay, New Zealand Christmas tree, Gold Medallion Tree, and Pink Trumpet Tree. A single tree type

is assigned to each of the proposed streets. No further landscaping is proposed within the residential lots at this time, though it is expected in the future

Lots E, F, G, H, I, J, K, L, and M are proposed as narrow landscaped pockets where residential side yards abut streets. These lots are proposed to be landscaped with Queen Palms, Crepe Myrtle, Golden Trumpet Tree, Bronze Loquat trees and turf block between the sidewalk and the curb.

B. Project Location, Site Description & History

The site address is 17301 Graham Street, Huntington Beach, Orange County. (See Exhibits 1 and 2) It is bounded by Graham Street to the east, the East Garden Grove Wintersburg Flood Control Channel (Co5) to the south, the currently undeveloped sites immediately to the west known as the Goodell site and the Ridge site, and existing residential uses to the north (along Kenilworth Drive). The development to the north is located within the City. The land to the north and to the east of the project is located outside the coastal zone. The areas located east of Graham Street, south of the Co5, and immediately north of the subject site along Kennilworth Drive are developed with low density residential uses. To the northwest is a multi-family condominium development known as Cabo del Mar. To the southwest of the subject site lies the Bolsa Chica Ecological Reserve. West of the Goodell and Ridge properties, across Bolsa Chica Road, is the site known as Brightwater, a development of 349 residential single family homes (approved pursuant to coastal development permit 5-05-020). The Brightwater site, the Goodell property, and the Ridge property are located atop the Bolsa Chica mesa.

The majority of the site is roughly flat with elevations ranging from about 1.9 feet (MSL NAVD 88) to approximately 4.4 feet (MSL NAVD). The western portion of the site is a bluff that rises to approximately 49 feet (MSL NAVD 88) to the Bolsa Chica mesa. The Co5 levee at the site's southern border is approximately 12 feet above mean sea level (MSL NAVD 88). The majority of the subject site has been more or less continuously farmed dating back to at least the 1930s. Presently, farming continues on the subject site.

Historically, this site was part of the extensive Bolsa Chica Wetlands system and was part of the Santa Ana River/Bolsa Chica complex. In the late 1890s the Bolsa Chica Gun Club completed a dam with tide gates, which eliminated tidal influence, separating fresh water from salt water. In the 1930s, agricultural ditches began to limit fresh water on the site, and in 1959, the East Garden Grove-Wintersburg Flood Control Channel (EGGW FCC) isolated the site hydrologically.

In its action on the LUP amendment for the subject site, the Commission found that wetlands were present on site. In addition, the Commission found that additional wetlands would exist on site were it not for either unpermitted fill activities or farming activities that converted wetlands to dry lands. Any activities, whether normal farming activities or other, that result in the fill of wetlands cannot be exempt from the need to obtain approval of a coastal development permit. Unpermitted development cannot be used as a basis to justify development in areas where, were it not for the unpermitted development, such development would not be consistent with the requirements of the Coastal Act. Consequently, the Commission found that both the areas that met the definition of wetland at the site as well as the area that would have met the definition of wetland were it not for unpermitted activity, must be treated as wetland in terms of uses allowable within and adjacent to

these areas. The applicant acknowledges the Commission's wetland determination for the subject site and proposes to preserve existing wetland and restore those areas lost due to unpermitted development. The wetland preservation and restoration is included in the proposed Habitat Management Plan (HMP), described in greater detail later in the staff report.

In addition, on the site's western boundary, generally along the base of the bluff, are two groves of Eucalyptus trees. The trees are used by raptors for nesting, roosting, and as a base from which to forage. These two eucalyptus groves were recognized as environmentally sensitive habitat areas (ESHAs) by the Commission in its approval of the Land Use Plan and Implementation Plan amendments. They are known as the northern eucalyptus ESHA and the southern eucalyptus ESHA.

C. Permit & LCP History of the Site

The LCP for the City of Huntington Beach, with the exception of two geographic areas, was effectively certified in March 1985. The two geographic areas that were deferred certification were the subject site (known then as the MWD site), and an area inland of Pacific Coast Highway between Beach Boulevard and the Santa Ana River mouth (known as the PCH ADC). The subject site is northeast of the Bolsa Chica LCP area. At the time certification was deferred, the subject area was owned by the Metropolitan Water District (MWD). The site has since been sold by MWD and is currently owned by Shea Homes. Both of the ADCs were deferred certification due to unresolved wetland protection issues. The PCH ADC was certified by the Commission in 1995. The wetland areas of that former ADC are land use designated Open Space – Conservation and zoned Coastal Conservation.

A comprehensive update to the City's LUP was certified by the Commission on June 14, 2001 via Huntington Beach LCP amendment 3-99. The City also updated the Implementation Plan by replacing it with the Zoning and Subdivision Ordinance (while retaining existing specific plans without changes for areas located within the Coastal Zone). The updated Implementation Plan was certified by the Coastal Commission in April 1996 via LCP IP amendment 1-95. Both the LUP update and the IP update maintained the subject site as an area of deferred certification.

An LUP amendment for the subject site (HNB-MAJ-1-06) was approved with suggested modifications by the Coastal Commission on November 14, 2007. The City accepted the suggested modifications and the LUP amendment was effectively certified in August 2008. An Implementation Plan amendment (HNB-MAJ-2-10) was approved with suggested modifications by the Coastal Commission on October 13, 2010. The City has accepted the suggested modifications, the Commission concurred with the Executive Director's determination that the City's action was legally adequate on November 3, 2011, and the area is now effectively certified.

In the course of processing a coastal development permit for the proposed development as well as earlier versions of development proposals, a number of applications have been submitted and subsequently withdrawn. Originally, the applicant's intent was to process the coastal development permit application concurrently with the LCP amendment for the subject site. However, it became clear that it was necessary to finalize appropriate land use areas within the subject site via the LCPA process prior to acting on a development application.

The current coastal development permit application (5-11-068) was originally submitted as 5-09-182. 5-09-182 was withdrawn in order to allow additional time to review the proposal. It was subsequently resubmitted as the subject application. Coastal development permit applications for different development plans at the subject site that have been submitted and subsequently withdrawn in the past include 5-06-327, 5-06-021, 5-05-256 and 5-03-029 (Shea Homes). In addition, an appeal of a City approved permit for the certified area of the subject site⁴ was filed (A-5-HNB-02-376). The appealed action remains pending, but the applicant waived the deadline for the Commission to act on the appeal. As a special condition of this permit (Special Condition No. 25) the applicant is required to withdraw that permit application at the local level, thus making that application and related appeal moot. Further, the applicant included content of the proposed development from the City-approved permit that was appealed (A-5-HNB-02-376) in the current subject proposal before the Commission.

D. Standard of Review

The subject property is situated in the coastal zone such that it is governed by two permitting jurisdictions—the Commission’s original permit jurisdiction and the City of Huntington Beach’s jurisdiction, subject to its recently certified LCP. As noted above in the Executive Summary, regarding the stipulated remand, both the Commission and the applicant agreed that Commission staff shall make the same recommendation of approval with conditions that it had made in connection with the October 6, 2011 hearing on the subject application and to apply, as the standard of review, both the Coastal Act and the City’s recently certified Local Coastal Program to the Parkside Estates Property. Thus, for the areas of the subject site that are within the Commission’s original jurisdiction, staff will apply the Chapter 3 policies of the Coastal Act to determine whether or not the proposed development is in conformity those policies. Whereas, for areas of the subject site that are within the City’s certified LCP jurisdiction, staff will apply the recently certified LCP provisions, to determine whether or not the proposed development is in conformity with the applicable provisions in the certified LCP. For purposes of clarification, the areas subject to the Coastal Act standard of review include the area of the County’s Co5 flood control channel right of way while all other areas of the proposed development are subject to the City’s certified LCP provisions.

Additionally, section 30604(c) of the Coastal Act provides that every coastal development permit issued for any development that lies between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include findings that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act. Therefore, staff must find that the entirety of the proposed development is in conformity with the

⁴ The staff report and Commission findings from the 1982 LUP certification are not entirely clear about how much area was deferred certification. However, a portion of the subject site may have been certified at the time of the City’s LCP certification. The Commission does not, in this report, take any position on the issue of what area was certified before the City’s submittal of its LCP amendment and what area remained uncertified pending the Commission’s certification of the LCP IP amendment for the site. In any case, the City clearly depicted this area as being subject to its LCP amendment (through the exhibit to its resolution) and clearly “resubmitted” any portions of that area that may have been certified. Therefore, the issue is moot since, both, the current application includes the proposed development in the appealed development (A-5-HNB-02-376) and Commission staff is using the City’s recently certified LCP provisions to approve the development from the previously appealed City-approved permit.

public access and public recreation policies of the Coastal Act because the entire subject site lies between the nearest public road and the sea.

E. Public Access

Section 30210 of the Coastal Act states:

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

Section 30252 of the Coastal Act states, in pertinent part:

The location and amount of new development should maintain and enhance public access to the coast by ... (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, ... (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Coastal Act Section 30212.5 states:

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

Coastal Act Section 30213 states, in pertinent part:

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

Coastal Act Section 30223 states:

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

In addition, the City's certified LUP contains the following policies regarding public access:

Provide coastal resource access opportunities for the public where feasible and in accordance with the California Coastal Act requirements.

Encourage the use of City and State beaches as a destination point for bicyclists, pedestrians, shuttle systems and other non-auto oriented transport.

*Encourage the utilization of easements and/or rights-of-way along **flood control channels**, public utilities, railroads and streets, wherever practical, for the use of bicycles and/or pedestrian (emphasis added).*

Maintain existing pedestrian facilities and require new development to provide pedestrian walkways and bicycle routes between developments.

Link bicycle routes with pedestrian trails and bus routes to promote an interconnected system.

Develop a riding and hiking trail network and support facilities that provide linkages within the Coastal Zone where feasible and appropriate.

Balance the supply of parking with the demand for parking.

Maintain an adequate supply of parking that supports the present level of demand and allow for the expected increase in private transportation use.

Maintain and enhance, where feasible, existing shoreline and coastal resource access sites.

Promote and provide, where feasible, additional public access, including handicap access, to the shoreline and other coastal resources.

Promote public access to coastal wetlands for limited nature study, passive recreation and other low intensity uses that are compatible with the sensitive nature of these areas.

Maintain and enhance, where necessary, the coastal resource signing program that identifies public access points, bikeways, recreation areas and vista points throughout the Coastal Zone.

Preserve, protect and enhance, where feasible, existing public recreation sites in the Coastal Zone.

Ensure that new development and uses provide a variety of recreational facilities for a range of income groups, including low cost facilities and activities.

Encourage, where feasible, facilities, programs and services that increase and enhance public recreational opportunities in the Coastal Zone.

Promote and support the implementation of the proposed Wintersburg Channel Class I Bikeway.

Public access and recreation policies and standards approved by the Coastal Commission via Land Use Plan amendment 1-06 specifically regarding the subject site include:

The provision of a public access plan as follows:

A development plan for this area shall ... include:

A Public Access Plan, including, but not limited to the following features:

- ❖ *Class I Bikeway (paved off-road bikeway; for use by bicyclists, walkers, joggers, roller skaters, and strollers) along the north levee of the flood control channel. If a wall between residential development and the Bikeway is allowed it shall include design features such as landscaped screening, non-linear footprint, decorative design elements and/or other features to soften the visual impact as viewed from the Bikeway.*
- ❖ *Public vista point with views toward the Bolsa Chica and ocean consistent with Coastal Element policies C 4.1.3, C 4.2.1, and C 4.2.3.*
- ❖ *All streets shall be ungated, public streets available to the general public for parking, vehicular, pedestrian, and bicycle access. All public entry controls (e.g. gates, gate/guard houses, guards, signage, etc.) and restrictions on use by the general public (e.g. preferential parking districts, resident-only parking periods/permits, etc.) associated with any streets or parking areas shall be prohibited.*
- ❖ *Public access trails to the Class I Bikeway, open space and to and within the subdivision, connecting with trails to the Bolsa Chica area and beach beyond.*
- ❖ *Public access signage.*
- ❖ *When privacy walls associated with residential development are located adjacent to public areas they shall be placed on the private property, and visual impacts created by the walls shall be minimized through measures such as open fencing/wall design, landscaped screening, use of an undulating or off-set wall footprint, or decorative wall features (such as artistic imprints, etc.), or a combination of these measures*

As well as the following:

Uses consistent with the Open Space-Parks designation are allowed in the residential area.
and

The 50 acre site (located west of and adjacent to Graham Street and north of and adjacent to the East Garden Grove Wintersburg Orange County flood Control Channel) known as the "Parkside" site affords an excellent opportunity to provide a public vista point. A public vista point in this location would provide excellent public views toward the Bolsa Chica and ocean. Use of the public vista point will be enhanced with construction of the Class I bike path along the flood control channel and public trails throughout the Parkside site.

Policy C 2.4.7

The streets of new residential subdivisions between the sea and the first public road shall be constructed and maintained as open to the general public for vehicular, bicycle, and pedestrian access. General public parking shall be provided on all streets throughout the entire subdivision. Private entrance gates and private streets shall be prohibited. All public entry controls (e.g. gates, gate/guard houses, guards, signage, etc.) and restrictions on use by the general public (e.g. preferential parking districts, resident-only parking periods/permits, etc.) associated with any streets or parking areas shall be prohibited.

Section 30604(c) of the Coastal Act provides that every coastal development permit issued for development that lies between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include findings that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act. The 50-acre subject site is located adjacent to the Bolsa Chica Ecological Reserve, a tidally influenced body of water and therefore, the sea as defined under the Coastal Act, Section 30115 and the City's certified LCP. (See Exhibit 7). The East Garden Grove-Wintersburg Flood Control Channel and its banks separate the subject property from the Bolsa Chica Ecological Reserve (BCER). The BCER, at approximately 1,000 acres, is the largest remaining wetland in Southern California. Because there is no public road between the subject site and the Bolsa Chica wetlands, the site is between the sea and the first public road, therefore requiring the Commission to consider public access and public recreation policies in its decision.

Given the prominence of the adjacent Bolsa Chica wetlands, appropriate public access and passive recreational opportunities must be provided and conspicuously posted. Further, both the Coastal Act and the City's certified LCP gives priority to land uses that provide opportunities for enhanced public access, public recreation and lower cost visitor recreational uses. Section 30212 of the Coastal Act mandates that new development provide public access from the nearest public roadway to the shoreline. This emphasis has been carried over into the City's certified LCP. In addition, the certified LCP policies and standards specific to the subject Parkside property also require the provision of public access and recreation amenities. In certifying the City's LUP and in its most recent LCP actions regarding the subject site, the Commission recognized the importance of maximizing public access to the shoreline from the project site by requiring that adequate parking and alternate means of transportation, low cost recreational uses, and public access signage be provided.

Beyond the Bolsa Chica Ecological Reserve are the Pacific Ocean and its sandy public beaches. Thus, public access across the subject site to the Bolsa Chica area would, in turn, facilitate public access, via alternate means of transportation (bicycle and pedestrian), to the ocean beach.

The proposed development will provide alternative means for accessing the coast, consistent with the requirements of Section 30252 of the Coastal Act and the access and recreation policies of the City's certified LCP. There is no public parking available on Pacific Coast Highway adjacent to the reserve. The visitor serving uses available within the Bolsa Chica Ecological Reserve (such as walking, nature study, or bird watching) are served by only two small parking areas. One located at the Interpretive Center at the corner of Warner Avenue and Pacific Coast Highway, and the second at about the midway point along the reserve's Pacific Coast Highway frontage. The placement and amount of the proposed new development will maintain and enhance public access to the coast. Namely, it will provide the public with alternate forms of transportation to access the BCER area, such as biking or hiking from inland areas. There is also a lack of adequate parking to serve the BCER which is a limiting factor in maximizing public use of the reserve's amenities. Thus, allowing the general public to park on the streets of the proposed development and use the accessways leading to the surrounding recreational areas will ensure that the project maximizes public access to and along the coast.

It is also important to note that the Brightwater residential development, approved by the Coastal Commission under coastal development permit 5-05-020 (Brightwater), is located less than one half mile west of the subject site. That development was originally proposed as a private, guard gated community. However, as approved by the Commission the project is open to general public vehicular and pedestrian access, also allowing public parking on all subdivision streets. Also, as approved by the Commission the Brightwater development includes a public trail along the bluff edge of the development, with public paseos and pocket parks throughout. The Commission's approval of the Brightwater project also required public access signage, which has been provided.

In approving the Brightwater development the Commission found:

“The provision of public access in new development proposals is one of the main tenants of the Coastal Act, especially in conjunction with new development located between the sea and the first public road, such as the subject project. The 225-acre Bolsa Chica Mesa is located between the first public road and the mean high tide of the sea. At roughly 50 ft. above mean sea level, spectacular views of the wetlands and the associated wildlife and uninterrupted views of the Bolsa Chica State Beach and Pacific Ocean are available from the upper bench of the Bolsa Chica Mesa. Santa Catalina Island is also often visible from the project site. The Bolsa Chica Wetlands at approximately 1,000 acres is the largest remaining wetland in Southern California. Following the 1997 State acquisition of most of the remaining wetlands that were under private ownership, a comprehensive Bolsa Chica wetlands restoration effort is now underway. Given the prominence of the adjacent Bolsa Chica wetlands, appropriate public access and passive recreational opportunities must be provided and conspicuously posted. Further, the Coastal Act gives priority to land uses that provide opportunities for enhanced public access, public recreation and lower cost visitor recreational uses.”

A trail connection between the Brightwater trail system and the Co5 levee trail is also anticipated in the future and shown on the approved public access plan for the Brightwater development. The public access trails of the approved Brightwater project link to the trail system along the Bolsa Chica wetlands and beyond. In addition, the Commission recently approved coastal development permit 5-09-209 (Orange County Public Works) for repairs to the Co5 channel's south levee. The Commission's approval of that project includes public trail upgrades along the south levee that will further contribute to the public trail system in the vicinity.

These trails, in addition to providing recreational opportunities, also provide significant opportunities for nature study and views of the wetlands and ocean beyond. The Bolsa Chica Ecological Reserve public trail system is a public access resource of regional significance. Members of the general public come from throughout the entire Orange County area and beyond to bird watch, hike, or bike the trail system. As the largest remaining wetland in Southern California, the public trail system leading to and within the Bolsa Chica area constitutes a resource of statewide significance. Further, Bolsa Chica State Beach, located across Pacific Coast Highway from the Bolsa Chica wetland area, can be accessed from inland areas via this trail system.

More specifically, in certifying the land use plan amendment for the subject site (HNB LCPA 1-06), the Commission found that *“A bike route in this area [atop the north levee] would provide*

substantial public access benefits. It is encouraged in existing LUP policies. It would provide a connection between existing inland routes and the Bolsa Chica area and is expected to be extended in the future along the remainder of the EGGWFCC levee adjacent to the Bolsa Chica Restoration area. When such an extension occurs (as is anticipated in the City's LUP and by the County Public Facilities & Resources Department), the bike route would eventually link to the coast. An off road bicycle path already exists along the entire length of the City's ocean fronting beach. A bike path at the subject site and along the remainder of the EGGWFCC would provide a new connection from inland bicycle paths to this coastal path. Not only would such a bicycle path provide substantial public recreational benefits, but it would also improve public access opportunities by providing alternate means of transportation to get to the coast and to the trails within the Bolsa Chica area. The City and the County have both indicated that a bicycle path in this location is desirable and appropriate."

As required by the Coastal Act, and by the City's certified LCP, the applicant has proposed a number of public access and recreation features in conjunction with the proposed development to maximize public access and recreation. These are described in greater detail below.

The proposed project includes a Public Trails and Access Plan. The plan is depicted on a map of that title, prepared by HSA, dated 1/11/10 (see Exhibit 5). Public uses proposed on site include a 0.6 acre passive park, a one acre active park, a 1.8 acre linear paseo park, a public vista atop the vegetated flood protection feature (VFPF), a Class 1 Bike trail atop the reconstructed Co5 levee, and trails within and throughout the residential portion of the development. The proposed public trails will connect with the existing public trails in the project vicinity including the public trail systems of the Bolsa Chica Ecological Reserve, the south Co5 levee, the Brightwater development, and ultimately along Bolsa Chica State Beach. A signage plan is also proposed. The proposed Public Trails and Access Plan is described in greater detail below.

1. Parks

a) Passive Park (Lot S)

The 0.6 acre passive park is proposed within the OSC area and will be landscaped with Coast Live Oak, California Sycamore, and Western Redbud trees, primarily coastal sage scrub shrubs, and grasslands primarily native to coastal Orange, Los Angeles, and/or San Diego counties. A 10 foot wide, decomposed granite trail is proposed to loop through the passive park. Benches for public use are also proposed. A trail fence (described in the Habitat Management Plan section) is proposed along the border with the restored habitat area (restored to coastal sage scrub and native grasslands habitats where it abuts the passive park). Although this area falls within the area designated Open Space Conservation and zoned Coastal Conservation, this area is not proposed to be included within the Habitat Management Plan. A passive park in this location is specifically identified in the approved LCP for the subject site. Regarding the subject site, the City's certified LUP states:

Uses allowed within the ESHA buffer are limited to:

- 4) within the northern grove ESHA buffer only – passive park use may be allowed if it is more than 150 feet from the ESHA, but only when it is outside all wetland and wetland*

buffer areas, and does not include any uses that would be disruptive to the ESHA. Uses allowed within the passive park areas shall be limited to:

- a) nature trails and benches for passive recreation, education, and nature study;*
- b) habitat enhancement, restoration, creation and management.*

At its nearest point, the proposed Passive Park is 150 feet from the northern eucalyptus ESHA. Although no direct connection is depicted on the Public Trails and Access Plan, the existing, informal public trail at the western end of the northern property line, which will remain, would be accessed from this passive park area.

Lot S, TTM 15377, Passive Park, will be maintained by both the HOA and the City. The HOA will be responsible for landscape, irrigation and lighting. The City of Huntington Beach will be responsible for the park features including all benches, trails, etc.

b) Active Park (Lot A)

A one acre active park is proposed within the area designated and zoned residential. It is adjacent to the Open Space Conservation designated area, immediately adjacent to the passive park and a portion of the 100 foot EPA wetland buffer area. In this area the EPA wetland buffer is proposed to be restored to native grassland habitat. It also is adjacent to and links with the EPA trail (described below). The active park is proposed to be landscaped with primarily, though not exclusively, local natives, though all plants will be drought tolerant non-invasive. A 10 foot wide, decomposed granite trail is proposed to loop through the active park that would also link with the trail in the passive park, with proposed Street "B" and with the EPA trail. The EPA trail connects at the other end to the Co5 levee trail via the levee connector trail within Lot W.

A tot lot area, a swing set area, and a free play turf area are proposed within the Active Park. A gazebo is proposed between the tot lot and the eastern edge of the park. Also proposed are two entry arches where the Active Park trail meets B Street. Benches are proposed near the tot lot and the free play turf area.

Lot A, TTM 15377, Active Park, will be maintained by both the HOA and the City. The HOA will be responsible for landscape, irrigation and lighting. The City of Huntington Beach will be responsible for the park features including all hardscape, tot lot play structure and area, benches, tables, gazebo, trails, etc.

Public pedestrian access to the active park is also proposed to be provided from Greenleaf Lane, which is located in the adjacent, established neighborhood to the north. In addition to the provision of public pedestrian access, a minimum 30 foot wide (per City's approval requirement) emergency vehicular access will be provided from Greenleaf Lane as well. Vehicular access from Greenleaf is limited to emergency vehicles only. The emergency vehicular access will connect Greenleaf Lane with "A" Street. The emergency vehicular access is proposed to be gated to preclude non-emergency vehicles.

c) Paseo Park (Lots O, P, Q, R)

A Paseo Park is proposed as a 1.8 acre linear green space within the area designated residential. It borders the site's northern property line and extends from Graham Street to the active park area, where the public can continue along dedicated pathways to recreational areas along the flood control channel and BCER. A slightly meandering public trail is proposed within Paseo Park. An entry arch is proposed at the point of the meandering trail nearest to Graham. Between the meandering trail and the adjacent street, Paseo Park is proposed to be planted with Crepe Myrtle, Golden Trumpet Tree, and/or Bronze Loquat trees and turfblock (Seashore Paspalum). Between the meandering walkway and the northern property line, the Paseo Park is proposed to be planted with Bottle Tree, Indian Laurel Fig tree, Brisbane Box tree, Crepe Myrtle, Golden Trumpet Tree, Bronze Loquat tree, Queen Palm, and shrubs/ground cover not currently identified.

In a letter dated 4/29/10, the applicant's biological consultant LSA certified that the proposed "landscape plans have no nonnative species in the park areas that could invade the adjacent natural areas." (See exhibit 18)

2. Trails

The proposed project includes a number of public trails, described in greater detail below. The active park (Lot A) and the passive park (Lot S) and informal trail within Lot CC will be dedicated in fee to the City and managed by the HOA. All other park and trail areas are proposed to be dedicated in fee to the proposed Homeowners Association, with an offer to dedicate a public trail easement to the City. With the exception of the trail within the Paseo Park, all trails will be within 10 foot wide public access easements. Within the Paseo Park, the trail itself will be 3½ feet wide, meandering within the dedicated 10 foot wide public trail easement.

a) Levee Connector Trails – Lots N & W

Two levee connector trails are proposed within proposed Lots N & W. The trail within Lot W will connect the EPA trail which extends from the active park, to the levee near the western end of Street C. In addition, the trails within Lots N and W will connect the internal subdivision streets and sidewalks to the levee trail. Lot N is located at the levee at the intersection of Street B and Street C. Street B is adjacent to the Active Park. The levee connector trails will accommodate both pedestrians and bicycles.

b) Informal Trail - Lot CC

In addition, there is an existing informal public trail along the western end of the northern property line. No changes are proposed to this use. This trail is located within proposed Lot CC. Lot CC is located within the Open Space Conservation designated area and is included within the area contained in the proposed Habitat Management Plan.

c) EPA Trail – Lots T, U, V

A public trail, called the EPA trail because it abuts the EPA wetland buffer, is also proposed along the western edge of the area designated for residential development. This trail would skirt along the edge of the habitat restoration area and connect the active park to the levee connector trail in proposed Lot W. The EPA trail is proposed within Lots T, U, and V. Two benches are proposed within Lot U. Entry arches are proposed within Lot T where the trail meets Street B and within Lot V where the trail meets the Street C cul-de-sac. Landscaping is also proposed.

d) VFPP Public Vista Point

A public vista point is proposed atop the VFPP with a public trail leading from the levee trail to the vista point. The VFPP trail is proposed to be 15 feet wide and is also proposed to accommodate maintenance vehicles. As proposed, the Vista Point trail atop the VFPP extends approximately 250 feet north from the levee, where a scenic vista point is proposed. The area of the vista point is proposed to be 50 by 50 feet.

e) Levee Trail

In addition, a Class 1 bicycle and pedestrian trail is proposed atop the reconstructed north levee of the Co5 channel. Two connector trails, described above, are proposed from within the residential development to the levee top trail. In addition, public access to the levee trail will be available from Graham Street.

f) Public Sidewalks

A public sidewalk is proposed along the west side of Graham Street, adjacent to the proposed project, and an internal connector sidewalk is proposed from the project entry area to the northern end of C Street. The connector sidewalk at the project entry provides an additional access point to the project public trails, as well as other amenities within and nearby the project site. Internal sidewalks are also proposed along the proposed streets. All sidewalks within the development are proposed to be public.

g) Paseo Park Trail

Within the Paseo Park, a 10 foot wide easement is proposed to be offered to the City of Huntington Beach. Within the 10 foot wide easement, a minimum 3½ foot wide meandering public trail is proposed.

3. Public Parking, Public Roads, & No Gates

As proposed, all of the streets of the development will be ungated and open to the public for public pedestrian, bicycle and vehicular access. A total of 195 public parking spaces will be available on project's public streets. The parking spaces are located on both sides of all public streets. Of the 195 public parking spaces, 27 will be available on "A" Street adjacent to Paseo Park and 24 spaces will be available on "B" Street adjacent to the active park and a portion of the EPA trail. The remainder of the on-street public parking spaces (144) is distributed throughout the subdivision streets, including near the levee connector trails. All on-street parking is proposed to be open and

available to the general public and no preferential on-street parking, reserved for private residential use is proposed. All streets are proposed to be dedicated to the City.

4. Public Access Signage

The proposed public access plan includes public access signage. The face of the public access signs are proposed to be 1½ feet tall by 1 foot wide, and attached to a post for an overall height of 5½ feet. Signage lettering is proposed to be approximately 2 inches high. One sign is proposed at the subdivision entry road at Graham Street; one at the pedestrian/emergency vehicle from Greenleaf Street; and one at the levee connector trail within Lot W; for a total of three public access signs on the site. The sign within lot W is proposed at the bottom of the levee connector trail, not visible from the larger levee trail.

5. Walls & Fences Adjacent to Trails

A wall is proposed along the C05 north right of way between the proposed levee trail and residential development. The applicant states that the wall is required by the City of Huntington Beach for privacy and security purposes. The wall is proposed to be 6 feet in height except at the column caps. To lessen the appearance of the bulk of the wall, 24 square inch columns are proposed at approximately every 55 feet within the otherwise 6 inch wide wall. Thus, every 55 feet the wall will jut out 9 inches (on both sides), creating an offset along the face of the wall (See exhibit 11). Additionally, the wall is proposed to feature two different block finishes that is intended to create a decorative pattern along the wall. The columns and the decorative block between will be finished with concrete caps to further aid the visual appearance of the wall treatments. The wall will be located on the proposed private residential lots and no part will encroach onto the City or County right of way.

6. Public Restroom

The proposed development includes 111 new single family residences. Occupants of this new residential development will increase recreational demand within the project vicinity. The subject site is surrounded by an extensive trail system adjacent to and within the Bolsa Chica Ecological Reserve. The introduction of 111 new residences will result in an increase to the already existing demand on this system. Annually, it is estimated that approximately 25,000 students, volunteers and visitors come to the Bolsa Chica Interpretive Center alone. This number does not account for visitors who routinely visit the wetlands trail system without entering the Interpretive Center. Currently, within the Bolsa Chica Ecological Reserve there are only two public restrooms available. These are two non-permanent, outhouse type facilities affiliated with the Bolsa Chica Interpretive Center which is located near the southeast corner of the intersection of Pacific Coast Highway and Warner Avenue.

In the vicinity of the subject site (northeast Bolsa Chica area), no public restrooms are available. Adding the future occupants of the proposed new 111 residential units to the current level of demand already placed upon the public trail and amenities system in the Bolsa Chica area, there is a need for public restroom facilities. People who would otherwise visit the area may be dissuaded to access the coast from the subject property's trails due to the absence of adequate restroom facilities.

Or, those who do visit may need to cut visits short. As proposed, no public restroom is included in the proposed development. For the reasons discussed above, lack of adequate public restroom facilities can create adverse impacts on public access and recreation.

The active park proposed at the subject site would provide an ideal location for a public restroom. This location would allow users of the tot lot (proposed in the active park) with small children ready access to the facility, while at the same time being convenient to the users of the trails throughout the subject site. Signage would aid in letting users of the levee trail know of the availability of a restroom, so that those accessing the wider Bolsa Chica trail system from the levee trail would become aware of its existence. Such a facility would not need to be elaborate to be effective. A single stall with an outdoor sink would be adequate.

The Commission finds that without the provision of a public restroom within the active park at the subject site, the proposed development cannot be found to be consistent with the public access and recreation policies of the Coastal Act or with the public access and recreation policies of the City's certified LCP which require that public access be maximized. Thus, a special condition is imposed that requires that the proposed development include a public restroom within the active park area. Therefore, the Commission finds that only as conditioned can the proposed project be found consistent with the public access and recreation policies of the Coastal Act and with the public access and recreation policies of the City's certified LCP.

It should be noted though, that if an acceptable alternate location is identified, an amendment to this coastal development permit may be pursued to allow construction of a restroom facility off-site as long as it adequately addresses the needs outlined above and serves the Bolsa Chica area.

7. Entry Monumentation

The main and vehicular entry into the subdivision is located at Graham Street at the northeastern side of the property. A landscaped median is proposed as well as entry monumentation. Also proposed in the median are a stone planter and a 5½ feet high by 15 feet long monument sign wall. The monument sign wall is proposed to say "Parkside". Also proposed are two entry arbors on either side of the road leading into the development. The entry arbors are proposed to be 10 feet tall, 12½ feet wide and 22 feet deep. The arbors are proposed to be open on the sides, with a total of six stone columns each. The roof is proposed to be wood and beam, with lattice on top.

The large sign announcing a private residential development, along with two entry arbors as proposed can create the impression of a private gateway to a private community with entry limited only to residents and their guests. The scale of the entry arbors and their symmetrical placement creates the false impression that the area beyond is an exclusive private gateway into a private residential enclave. When, in fact the site is an important entry point to public trails, parks and open spaces beyond. This would deter members of the general public from attempting to access the site, depriving them of use of the public access and recreational amenities available throughout the site. Thus, the proposed entry arbors and monument sign would deter members of the general public from attempting to access the site, depriving them of use of the public access and residential amenities available throughout the site. In addition, it would limit access through the site to the trail systems beyond. Thus, the proposed entry monumentation cannot be found to be consistent with

the Coastal Act and LCP policies that require that public access and recreation be maximized. Thus the Commission imposes a special condition requiring that the entry monumentation and arbors be deleted from the proposed project. Only as conditioned can the proposed project be found to be consistent with the public access and recreation policies of the City's certified LCP and the Coastal Act.

8. Public Access Amenities Ownership

Active and Passive Parks (Lots A and S) -An offer to dedicate in fee for both parks will be made to the City of Huntington Beach. In addition, all streets and street sidewalks will be offered for dedication to the City. The emergency vehicle/pedestrian access between Greenleaf Lane and Street A, is located within Lot A (Active Park) and so will be part of that offer to dedicate to the City.

Lots N and W (levee connector trails) - the land will go to the HOA (via deed restriction, CC&Rs, and dedication on tract map) and an offer to dedicate a 10 foot wide public pedestrian easement within the lots will be made to the City.

Within Lots T, U and V (trail from active park to levee [habitat area to the west, B Street to the east, and proposed residential lots to the south]) - the land will go to the HOA (via deed restriction, CC&Rs, and dedication on tract map) and an offer to dedicate a 10 foot wide easement within the lots will be made to the City.

Lot CC - the land will go to the HOA (via deed restriction, CC&Rs, and dedication on tract map). No offer to dedicate an easement to the City is proposed.

Lots C and D (located south of the entry at Graham Street, to provide public pedestrian sidewalk connection to Street C) the land will go to the HOA (via deed restriction, CC&Rs, and dedication on tract map) and an offer to dedicate a 10 foot wide easement within the lots will be made to the City.

Lots O, P, Q, R (Paseo Park) the land will go to the HOA (via deed restriction, CC&Rs, and dedication on tract map) and an offer to dedicate a 10 foot wide easement within the lots will be made to the City.

The City has indicated in writing its intention to accept all offers to dedicate described above.

The HOA will have responsibility for all landscape maintenance (including irrigation) of all areas described above, even for the Active and Passive parks dedicated in fee to the City.

The VFPP will be located within proposed Lot Y. An offer to dedicate it in fee to the County is proposed. The trail atop the levee will be within the Orange County Flood Control District's right-of-way. The County has indicated in writing its intention to accept the offer to dedicate the VFPP (contingent upon meeting FEMA standards) as well as operation and maintenance of the public trails and vista point.

The applicant has proposed a number of beneficial public access trails and amenities. However, in order to find the proposed development consistent with the public access and recreation policies of the City's certified LCP and the Coastal Act cited above, a few modifications are necessary to assure that public access is maximized at the subject site. These modifications should be reflected in a Public Amenities and Trail Management Plan.

9. Public Access – Special Conditions

In addition to the special conditions requiring a public restroom within the active park at the subject site and prohibition on entry monumentation, other special conditions are necessary to maximize public access in conjunction with the proposed development. For example, although the proposed project includes a Public Access Plan, it is not adequate to ensure public access will indeed be maximized. The signage plan must be expanded to require that the size of the public access signs are adequate to ensure their effectiveness. In approving the nearby Brightwater development (5-05-020), the Commission imposed a signage special condition requiring that signage be visible from nearby public roads and from internal streets and trails. Depending on the location of the signage and its intended viewer, appropriate sign sizes may differ. Specific sizes were not identified in the Brightwater signage special condition to allow the sign sizes to be appropriate to their location and intent. For example, signage at Graham Street and at other entry points into the development would appropriately be larger than internal signage within the development. In addition, the signage plan should ensure that public access signs are more numerous, contain enough information and are located prominently in all the appropriate locations. Furthermore, it should be made clear that public access signage and all public access amenities remain clearly available and functional for public use. Vegetation should not be allowed to become overgrown and obscure signage or the amenities themselves. In general the public access plan should make clear that the public access and recreation amenities will remain open and available to the general public and limitations on these uses are not allowed. Therefore, Special Condition No. 3 is imposed to submit a revised access plan, titled *Public Access Amenities & Trail Management Plan*, that makes clear the extent of access and recreation opportunities available and that they will remain available in perpetuity.

The applicant has proposed a plan addressing the provision of public access at the site during construction. See exhibit 12, Public Trail Access During Construction Revised Tentative Tract Map No. 15377. As proposed, public access would remain available at the site during construction via one of three possible trails. In the earliest stages of construction, public access will be maintained via the existing informal trail at the base of the bluff at the western side of the property. This trail will continue to link with the flood control channel levee to the south. As development continues, public access will be provided via a public access trail provided through the Paseo Park trail linked to the EPA trail and/or via the levee trail atop the north levee of the East Garden Grove Wintersburg flood control channel. Both of these trails will also link up with the flood control channel levee downstream. The applicant's proposed public access plan to be implemented during construction includes temporary public access signage as is reflected in Exhibit 12 of this staff report. To insure that existing public access at the site is not interrupted during construction, consistent with the Coastal Act and LCP requirements to maximize public access, a special condition is imposed which requires the applicant to carry out interim public access during construction as proposed.

As proposed, a number of the areas proposed to include public trails are proposed within multiple lots, even though the lots all provide the same public access trail use. This is true for the trail within the Paseo Park (Lots O, P, Q, R), the EPA trail (Lots T, U, V, W), and pedestrian entry at Graham (Lots C and D). Segmenting the areas proposed to contain single trails is not most conducive to ensuring continued public access. If the tract map stayed in its current configuration, there is a higher risk of misinterpretations of the CC&Rs and other relevant recorded restrictions as they relate to the lettered lot areas. Combining certain lettered lots in Tentative Tract Map 15377 that will be dedicated for one purpose would help ensure that each dedication is properly deeded and restricted consistent with the findings of this staff report. The recombined lots are necessary to ensure that the access and recreation areas are managed in a more comprehensive manner. Moreover, the proposed TTMs are not specific when identifying the uses for each of the open space lots. For example, for Lots T, U, V, proposed TTM 15377 in the list of uses per lot only identifies open space within these lots proposed to contain the EPA trail. And the use identified for Lot Y is only VFPP, with no mention of the public trail and vista point proposed on top. The list of uses per lot on the TTMs must more specifically identify the uses required within each lot. Thus, the Commission imposes Special Condition No. 10 to ensure that the proposed project conforms to the Coastal Act and certified LCP requirements to maximize public access and recreation.

As proposed the public access plan would include a gate across the top of the VFPP and a gate at the pedestrian/emergency vehicle entrance at Greenleaf Lane. Currently, informal public access exists across the adjacent Goodell property. A gate on the VFPP would interfere with continued use of this existing, informal access inconsistent with the public access policies of the Coastal Act. Also, the proposed gate at the Greenleaf Lane entrance could deter use of that access way by creating the impression that the trail access is closed or not meant for public use. Rather than a gate in that location, bollards would effectively preclude non emergency vehicles while still promoting public pedestrian and bicycle access at that access way. Therefore, a special condition is imposed to eliminate the gate on the VFPP/Vista Point trail and to replace the proposed gate at Greenleaf Lane with bollards instead.

Also, special conditions are imposed to assure that the dedications occur and are implemented as proposed. The Commission finds that only as conditioned can the proposed development be found to be consistent with the public access and recreation policies of the City's certified LCP and the Coastal Act.

F. Wetlands, ESHA, & Habitat

1. Wetlands

The City's certified LCP defines wetlands as: "Land which may be covered periodically or permanently with shallow water and includes saltwater marshes, freshwater marshes, open or closed brackish water marshes, mudflats, and fens. Wetlands are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification, wetland must have one or more of the following attributes:

1. At least periodically, the land supports predominantly hydrophytes; or
2. The substrate is predominantly undrained hydric soil; or

3. The substrate is non-soil and is saturated with water or covered by shallow water at some time during the growing season each year.”

In addition, the City’s LUP includes Policy C 6.1.20, which limits filling of wetlands to the specific activities outlined in Section 30233 of the Coastal Act and states:

C.6.1.20

Limit diking, dredging and filling of coastal waters, wetlands, and estuaries to the specific activities outline in Section 30233 and 30607.1 of the Coastal Act and to those activities required for the restoration, maintenance, and/or repair of the Municipal Pier and marina docks. Conduct any diking, dredging and filling activities in a manner that is consistent with Section 30233 and 30607.1 of the Coastal Act.

The certified LUP also includes the following policy:

C 7.1

Regulate new development through design review and permit issuance to ensure consistency with Coastal Act requirements and minimize adverse impacts to identified environmentally sensitive habitats and wetlands.

In addition, LUP policy C 7.1.4 states, in pertinent part: *“Require that new development contiguous to wetlands or environmentally sensitive habitat areas include buffer zones.”*

In addition, the City’s certified LCP specifically requires that development of the subject site must include a: *“Habitat Management Plan for all ESHA, wetland, and buffer areas designated Open Space-Conservation that provides for their restoration and perpetual conservation and management. Issues to be addressed include, but are not limited to, methods to assure continuance of a water source to feed all wetland areas, enhancement of habitats and required buffer areas, restoration and enhancement of wetlands and environmentally sensitive habitats and required buffer areas, and fuel modification requirements to address fire hazard and avoid disruption of habitat values in buffers.”*

Regarding uses within wetland and wetland buffer areas, the City’s certified LUP, specific to the subject site, further requires:

A. Wetlands:

Only those uses described in Coastal Element Policy C 6.1.20 shall be allowed within existing and restored wetlands.

All development shall assure the continuance of the habitat value and function of wetlands.

Wetland Buffer Area:

A buffer area is required along the perimeter of wetlands to provide a separation between development impacts and habitat areas and to function as transitional habitat. The buffer shall be of sufficient size to ensure the biological integrity and preservation of the wetland the buffer

is designed to protect.

A minimum buffer width of 100 feet shall be established.

Uses allowed within the wetland buffer are limited to:

- 2) those uses allowed within wetlands per Coastal Element Policy C 6.1.20;*
- 3) a vegetated flood protection levee is a potential allowable use if, due to siting and design constraints, location in the wetland buffer is unavoidable, and the levee is the most protective of coastal resources including wetland and ESHA;*
- 4) No active park uses (e.g. tot lots, playing fields, picnic tables, bike paths, etc.) shall be allowed within 100 feet of wetlands preserved in the Open Space Conservation area.*

In addition, policy C 7.2.7, of the City's certified LUP requires:

Any areas that constituted wetlands or ESHA that have been removed, altered, filled or degraded as the result of activities carried out without compliance with Coastal Act requirements shall be protected as required by the policies in this Land Use Plan.

Wetlands often provide critical habitat, nesting sites, and foraging areas for many species, some of which are threatened or endangered. In addition, wetlands can serve as natural filtering mechanisms to help remove pollutants from storm runoff before the runoff enters into streams and rivers leading to the ocean. Further, wetlands can serve as natural flood retention areas. Another critical reason for preserving, expanding, and enhancing Southern California's remaining wetlands is because of their scarcity. As much as 75% of coastal wetlands in southern California have been lost, and, statewide up to 91% of wetlands have been lost.

Historically, this site was part of the extensive Bolsa Chica Wetlands system and was part of the Santa Ana River/Bolsa Chica complex. In the late 1890s the Bolsa Chica Gun Club completed a dam with tide gates, which eliminated tidal influence, separating fresh water from salt water. In the 1930s, agricultural ditches began to limit fresh water on the site, and in 1959, the East Garden Grove-Wintersburg (Co5) flood control channel isolated the site hydrologically. Nevertheless, wetlands persist at the site today.

In its action on the LUP amendment for the subject site, the Commission found that wetlands were present on site. In addition, the Commission found that additional wetlands would exist on site were it not for either unpermitted fill activities or farming activities that converted wetlands to dry lands. Any activities, whether normal farming activities or other, that result in the fill of wetlands cannot be exempt from the need to obtain approval of a coastal development permit. Unpermitted development cannot be used as a basis to justify development in areas where, were it not for the unpermitted development, such development would not be consistent with the requirements of the Coastal Act. Consequently, the Commission found that both the areas that currently meet the definition of wetland at the site as well as the areas that would have met the definition of wetland were it not for unpermitted activity, must be treated as wetland in terms of uses allowed within and

adjacent to these areas. (See *LT-WR v. California Coastal Commission* (2007) 152 Cal.App.4th 770, 796-797)

Extensive documentation addressing the extent and location of wetlands at the subject site has been prepared in conjunction with the proposed development, first during the LCP amendment process and now with the coastal development permit application. In addition, the staff ecologist has reviewed historical information regarding the subject site and surrounding area. A complete list of all documents reviewed by the staff ecologist in conjunction with this project is included in Attachment B.

An updated wetland delineation, dated September 1, 2009, prepared by Tony Bomkamp of Glenn Lukos Associates, was submitted with the coastal development permit application. In addition, a subsequent wetland delineation update was prepared, also by Tony Bomkamp of Glenn Lukos Associates, dated April 20, 2012. No new wetland areas were identified in either delineation. The Commission's staff ecologist has reviewed both of these wetland delineations, in conjunction with the coastal development permit application. Although the delineations continue to argue that areas previously identified as wetland do not constitute wetlands, those areas are nevertheless proposed to be restored and preserved as wetlands.

No new evidence has been submitted to support the suggestion that areas not previously recognized by the Commission as wetland now exhibit wetland characteristics. The Commission's staff ecologist has reviewed the two most recent wetland delineations, recent aerial photos, and rainfall patterns for the entire site, as well as all previously submitted biological and wetland information. The Commission's staff ecologist finds the applicant's biological consultant's claims regarding the previously identified wetland areas are moot as these areas are proposed for restoration and preservation. Based on all information presented, the staff ecologist concurs with the determination that the areas of the subject site proposed for single family residential development, including the associated support facilities for the residential areas, do not exhibit wetland characteristics and do not meet the certified LCP and the Coastal Act definition of wetlands. No new evidence has been submitted supporting the presence of wetlands in areas other than those recognized in the proposed Habitat Management Plan and proposed for preservation and restoration.

The applicant acknowledges the presence of wetlands at the subject site and proposes to preserve and restore all wetlands on-site, including all existing wetland and those wetland areas lost due to unpermitted development, including the restoration of wetlands consistent with the Commission-approved Consent Cease and Desist Order CCC-12-CD-10 and Consent Restoration Order CCC-12-RO-10. In addition, wetland buffer areas are proposed, as required by the certified LCP. No evidence has been presented to support allegations of additional wetland area, beyond that recognized in the proposed project's Habitat Management Plan, exists at the subject site. The wetland preservation and restoration is included in the proposed Habitat Management Plan (HMP), is described in detail below.

2. ESHA

The City's certified LCP ESHA policies and ESHA definition reflect the Coastal Act's ESHA policies and ESHA definition. The City's certified LCP defines ESHA as:

Any area in which plant or animal life or their habitats are rare or especially valuable and which could be easily disturbed or degraded by human activities and developments.

In addition, the City's certified LUP includes the following policies:

C 7.1.2

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.

In the event that development is permitted in an ESHA pursuant to other provisions of this LCP, a "no-net-loss" policy (at a minimum) shall be utilized.

And

C 7.1.3

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 City's certified LUP also includes policy C 7.1.4, which requires that new development contiguous to wetlands or environmentally sensitive habitat areas include buffer zones.

Regarding uses within ESHA and ESHA buffer areas, the City's certified LUP states, specific to the subject site:

*Environmentally Sensitive Habitat Areas:
Only uses dependent on the resource shall be allowed.*

*Environmentally Sensitive Habitat Areas (ESHA)
Buffer Areas:*

A variable width buffer area is required along the perimeter of the ESHA and is required to be of sufficient size to ensure the biological integrity and preservation of the ESHA the buffer is designed to protect.

A minimum buffer width 297 to 650 feet shall be established between all residential development or active park use and raptor habitat within the eucalyptus groves.

Uses allowed within the ESHA buffer are limited to:

- 1) uses dependent on the resource;*

- 2) *wetland and upland habitat restoration and management;*
- 3) *vegetated flood protection levee that is the most protective of coastal resources including wetland and ESHA;*
- 4) *within the northern grove ESHA buffer only – passive park use may be allowed if it is more than 150 feet from the ESHA, but only when it is outside all wetland and wetland buffer areas, and does not include any uses that would be disruptive to the ESHA. Uses allowed within the passive park areas shall be limited to:*
 - a. *nature trails and benches for passive recreation, education, and nature study;*
 - b. *habitat enhancement, restoration, creation and management.*
- 5) *within the southern grove ESHA buffer only - a water quality Natural Treatment System may be allowed so long as it is located in an area that is most protective of coastal resources and at least 246 feet from the ESHA.*
- 6) *In addition to the required ESHA buffer described above, grading shall be prohibited within 500 feet of an occupied raptor nest during the breeding season (considered to be from February 15 through August 31);*

The subject site contains environmentally sensitive habitat areas (ESHA). On the site's southwestern boundary, at the base of the bluff, is a line of Eucalyptus trees that continues offsite to the west. The trees within this "eucalyptus grove" within and adjacent to the subject site's western boundary constitute an environmentally sensitive habitat area (ESHA) due to the important ecosystem functions they provide to a suite of raptor species. These eucalyptus trees are used for perching, roosting, or nesting by at least 12 of the 17 species of raptors that are known to occur at Bolsa Chica. Although it is known as the "eucalyptus grove", it also includes several palm trees and pine trees that are also used by raptors and herons. None of the trees are part of a native plant community. Nevertheless, this eucalyptus grove has been recognized as ESHA by multiple agencies since the late 1970's (USFWS, 1979; CDFG 1982, 1985) not because it is part of a native ecosystem, or because the trees in and of themselves warrant protection, but because of the important ecosystem functions it provides. Some of the raptors known to use the grove include the white tailed kite, sharp-shinned hawk, Cooper's hawk, and osprey. Many of these species are dependent on both the Bolsa Chica wetlands and the nearby upland areas for their food. These Eucalyptus trees were recognized as ESHA by the Coastal Commission in prior actions including its 2006 approval of the portion of the subject site that formerly fell within the Bolsa Chica LCP area ("County Parcel"), the Coastal Commission's approval of the adjacent Brightwater development (coastal development permit 5-05-020), and its actions on the LUPA and IPA for the subject site. The southwestern grove of Eucalyptus trees is recognized in the City's certified LCP as ESHA.

In addition, the Eucalyptus grove in the northwest corner of the site, although separated from the rest of the trees by a gap of about 650 feet, provides the same types of ecological functions as do the rest of the trees bordering the mesa. At least ten species of raptors have been observed in this grove and Cooper's hawks, a California Species of Special Concern, are known to have nested there. Due to the important ecosystem functions of providing perching, roosting and nesting opportunities for a variety of raptors, these trees also constitute ESHA. This northern eucalyptus grove is recognized in the City's certified LCP as ESHA.

The City's ESHA policies require that all ESHA be protected from significant disruption and that only uses dependent upon the resource are allowed within ESHA. In addition, the City's certified

LCP requires development adjacent to ESHA be sited and designed to prevent impacts which would significantly degrade the ESHA areas. The City's certified LCP ESHA policies further require that adjacent development be compatible with the continuance of the habitat area.

In order to assure the ESHA at the subject site is not significantly degraded, is protected, and remains viable, in addition to precluding non-resource dependent development within the ESHA, a buffer zone around the ESHA must be established to assure that adjacent development is compatible with the continuance of the ESHA. A buffer zone requires that development adjacent to the ESHA be set back an appropriate distance from the ESHA. The setback is intended to locate development far enough away from the ESHA so as to reduce any impacts that may otherwise accrue from the development upon the ESHA and that would significantly degrade the ESHA or be incompatible with its continuance. The distance between the ESHA and development, the buffer zone, must be wide enough to assure that the development would not degrade the ESHA and also would be compatible with the continuance of the ESHA.

The certified LCP requires a variable width buffer along the perimeter of the ESHAs that is adequate to ensure the biological integrity and preservation of the ESHAs the buffer is designed to protect. The certified LCP allows a variable buffer distance ranging from a minimum distance of 297 feet to a maximum distance of at least 650 feet between the ESHA and residential or active park development (note: 100 meters is 328 feet). In some areas of the site, the effective width of the buffer area would exceed 100 meters due to the relative location of wetland area and wetland buffer. These areas would provide appropriate ESHA buffer in that development, with the related noise, intrusions and activities, would not occur within them and also because those areas would remain viable as raptor foraging area. In approving the LUPA for the subject site the Commission found that buffer area was necessary to both reduce the impacts of development upon the ESHAs and to retain adequate foraging area to support the raptors continued use of the ESHA. The proposed buffer area was determined based on the area necessary to prevent impacts which would significantly degrade the ESHAs and to assure the continuance of the ESHA. The proposed ESHA buffer widths are consistent with those required in the certified LCP and are adequate to protect the ESHAs and prevent impacts.

The proposed development recognizes and preserves the on-site Eucalyptus ESHAs as well as the buffer area required by the LCP specifically for the subject site as necessary to protect the ESHAs. In order to implement these protections, the applicant has proposed a Habitat Management Plan as a component of the proposed development.

3. Habitat Management Plan

The City's certified LCP requires, specific to the subject site:

Habitat Management Plan shall be prepared for all areas designated Open Space-Conservation which shall include restoration and enhancement of delineated wetlands, wetland and habitat mitigation, and establishment of appropriate buffers from development.

As required by the above cited LUP policy and in order to protect on-site wetlands and ESHA as necessary for consistency with the certified LCP, the applicant has submitted a Habitat Management Plan (HMP) for the subject site in conjunction with the proposed development plan.

The restored area is expected to support a greater diversity and density of species than the site currently supports. In order to achieve these goals, the proposed project includes habitat restoration and management within the area designated Open Space Conservation. The plan is described in the document titled Habitat Management Plan, Parkside Estates, prepared by LSA, dated September 2011.

Habitat proposed to be managed and restored as described in the proposed HMP includes: 1.9 acre of eucalyptus ESHA (combined acreage of both the north and south eucalyptus groves); a portion of the proposed Natural Treatment System (1.6 acres); the 1.5 acre Vegetated Flood Protection Feature (less 0.3 acres to be occupied by the maintenance road/view point, turn around, and ramp); 1.4 acre CP wetland; the combined 4 acre EPA and 0.6 acre AP wetland (plus the area between them) for a total wetland restoration area of 5.1 acres⁵. The proposed HMP also includes 100' foot wide wetland buffer area located between the EPA wetland and the proposed residential development area and parks (approximately 5.4 acres of wetland buffer area); and revegetation within the buffer area. See exhibit 6 for a map of the proposed restoration plan. Of the entire Open Space Conservation area, only the 0.6 acre passive park is not included in the Habitat Management Plan (HMP). The passive park (described in the section on public access) is specifically identified in the LUPA for the subject site as a potentially allowable use within the northern eucalyptus grove ESHA buffer area.

The north and south eucalyptus ESHAs are proposed to remain as is. The northwest corner of the site, which is immediately west of the northern eucalyptus ESHA is proposed to be revegetated with native grassland plants (2.1 acres). The area between the northern eucalyptus ESHA and the passive park is also proposed to be revegetated with native grassland plants (1 acre). The area west of the proposed EPA/AP wetland complex (which includes the restored EPA wetland area, the restored AP wetland area and the restored wetland area between the two), south of the northern eucalyptus ESHA and native grassland revegetation is proposed to be revegetated with coastal sage scrub plants (3 acres). The VFPP is also proposed to be vegetated with coastal sage scrub plants (1.2 acres). The restored EPA/AP wetland complex is proposed to be 5.1 acres. East of the EPA wetland complex, the 100 foot wetland buffer area is proposed to be revegetated with native grassland plants (2.4 acres). And the area west of the EPA wetland complex is proposed to be revegetated with coastal sage scrub plants (3 acres). The area north of the 1.4 acre restored CP wetland is proposed to be revegetated with coastal sage scrub plants (3 acres).

The north and south eucalyptus ESHAs are proposed to be fenced during project grading, including grading for habitat restoration. Proposed fencing will coincide with the westernmost extent of grading. In addition, as proposed, no grading will occur within 500 feet of any active nest during the breeding season (Feb 15 to Aug 31). If active nests are discovered, additional fencing will be

⁵ The areas of the CP and EPA wetlands will be increased by 1.3 acres and 0.5 acres respectively in the revised HMP required by Special Conditions No. 2 consistent with the Commission approved Consent Cease and Desist Order CCC-12-CD-10 and Consent Restoration Order CCC-12-RO-10.

placed, in addition to keeping grading activities at least 500 feet from the nests. The project as proposed will be monitored during all construction activities by an on-site biologist.

a) Eucalyptus ESHAs

The proposed HMP provides methods intended to protect existing perching, roosting, and nesting opportunities for birds of prey in the Bolsa Chica area and to enhance the long term viability of the eucalyptus ESHAs. Specific measures proposed include: trash removal, removal of non-native shrubs (including myoporum and castor bean); protective fencing along the entire perimeter of the restored habitat area (except where it adjoins the restored habitat of the Brightwater development at the westernmost point); trimming of existing trees to treat disease; replacement of dead trees in northern grove; dead trees in the southern grove may be removed but only with Commission approval, but may or may not be replaced due to unfavorable conditions (increasing salinity and drought stress); and temporary irrigation as needed for replacement trees. Grading is proposed along the eastern edge of the northern grove in connection with the creation of the passive park and restoration of the EPA wetland, but will not occur within the grove itself. On-going, twice yearly trash and debris removal is proposed within the eucalyptus ESHAs in perpetuity. Unless otherwise directed by the project biologist, all dead limbs are to be left in place. The eucalyptus ESHAs are proposed to be monitored yearly each spring and qualitatively surveyed. Based on the surveys, recommendations for the following year will be made.

b) Wetland Creation, Restoration, & Enhancement Plan

The proposed project includes restoration of the wetland areas known as the EPA/AP (5.1 acre) and CP (0.4 acre restoration and 1 acre enhancement) wetlands. The HMP proposes to create/restore at least 4 acres of seasonal wetland in the area known as EPA wetland. This is proposed adjacent to an existing 0.63 acre area of ruderal (weedy) seasonal wetland (agricultural pond/AP). The area between the 4 acre and 0.63 acre wetland restoration is also proposed to be converted to wetland habitat. This will bring the total wetland restoration/creation amount in this area up to 5.1 acres. This combined area is referred to as the EPA wetland area⁶.

i. EPA Wetland

To supplement natural rainfall and runoff, the water source proposed to support the EPA wetland will derive from the proposed on-site NTS. Water will be diverted from the NTS into the created EPA depression during the late fall and winter months of each year. The depression is designed to contain shallow water at a depth of approximately 1 foot in the deepest part of the depression. A standpipe and drain, concealed with cobble, at the deepest part of the basin will allow drainage of the standing water in the late spring to abate any mosquito problems that may arise as the weather warms. The amount and timing of water additions and draining are proposed to be flexible to allow for optimum habitat conditions and adaptive management.

⁶ Ibid

While the water supply to this area will be freshwater, brackish marsh vegetation is proposed to be the primary vegetation type utilized. The hydrological design is intended to simulate the historic shallow closed basin that contained standing water in wet years.

The applicant's primary goal in this area is to create foraging habitat for wading birds, shorebirds and ducks during the winter. A secondary goal is to provide vegetative habitat for nesting birds such as Belding's savannah sparrow. Filling the basin in the late fall with water from the NTS to a maximum depth of approximately 1 foot is intended to result in gradually decreasing depths to the edge of the wetland where mudflat and emergent vegetation will occur. As proposed, it is possible that as much as 40% of the EPA wetland may be composed of bare ground (during non-rainy season)/open water (during rainy season).

The EPA wetland restoration/enhancement area will be graded to achieve the desired contours conducive to the habitat creation described above. The contours will be lowest in the northeastern area (approximately 0 foot contour, MSL NAVD 88), gradually becoming shallower moving to the southwest (approximately 0.9 foot contour, MSL NAVD 88), with six hummocks of varying steepness (15:1 to 21:1 slopes) and heights (1.2 to 0.8 foot MSL NAVD 88) interspersed throughout.

The EPA wetland area will be surrounded on the east by a 100 foot buffer of varying slopes that rise from approximately the 0.0 foot contour elevation (MSL NAVD 88) to a maximum of 7 foot contour elevation (MSL NAVD 88) where the Open Space area meets the development area (including the active park, public roadway, and public trails adjacent to residential lots). A trail fence is proposed along the edge of the buffer area/development area interface. The eastern buffer area is proposed to be vegetated with native grassland plants. The Bolsa Chica mesa bluff rises to the west of the EPA wetland area. In this portion of the buffer area, west of the EPA, coastal sage scrub revegetation is proposed. In addition, the southern end of the northern eucalyptus ESHA is present in the EPA buffer area, and to the southwest, partially within the buffer, the VFPP is proposed.

ii. CP Wetland

The CP wetland is proposed to be enhanced by installation of native high-salt marsh species. Existing southern tarplant in the area will be protected. Non-native plants will be removed. A wide range of plant species are proposed to be planted in order to account for varying conditions. It is not expected that all of the species will thrive or even persist on site. But the range of species will determine which are most suitable for the site. Removal of trash and debris is also proposed. The enhancement is intended to provide greater biodiversity within the area and to provide improved habitat for native salt marsh species.

Grading in the 0.4-acre CP restoration area⁷ is proposed in the southeast portion of the area. The restoration area will be graded to the approximately 1 foot contour elevation (MSL NAVD 88). No water diversion into the CP wetland is proposed. Areas that have become overly compacted through repeated use (roads, trails, construction, etc.) will be ripped in order to facilitate the

⁷ This 0.4 acre area proposed for CP wetland restoration will be increased in the revised HMP consistent with the Consent Orders approved by the Commission at the September 2012 hearing, as required by Special Condition No. 2.

expansion of the existing plant community, except where dense populations of the rare southern tarplant are present.

It is proposed that the CP wetland continue to receive natural rainfall and surface water runoff as its water source, as well as to continue to be supplemented by groundwater to the extent that that occurs now. However, construction of the proposed NTS will include a point of connect from the NTS to the CP wetland, which could then supply an auxiliary water supply if deemed appropriate. In addition, the NTS itself may supplement the groundwater, especially in the area of the nearby CP restoration area.

The CP wetland enhancement is proposed in the area where unpermitted fill is believed to have occurred sometime in the 1980s. The area of the CP wetland that was not subject to unpermitted fill is proposed to remain as is.

iii. Monitoring & Maintenance

Interim monitoring and maintenance as well as final monitoring are proposed in order to assure that final performance goals are reached. Long term maintenance of the restored and created wetlands is proposed to be the responsibility of the HOA once the final performance criteria are met. Long term maintenance is proposed to include trash and debris removal, weed control, and adaptive management of the water supply to maintain desired habitat conditions. Every 5 years the HOA will be responsible for hiring a qualified biologist to conduct a qualitative analysis of the wetland sites and submit the report to the CCC. If the wetland sites are found to not meet the final performance standards for native vegetation, remedial measures (developed in consultation with CCC staff and approved by the ED) are required.

c) Native Grassland & Coastal Sage Scrub Revegetation

The HMP proposes grading, site preparation, weed abatement, plant installation, monitoring, and maintenance for the restoration of a total of 12.7 acres consisting of 6.5 acres of native grassland and 6.2 acres Coastal Sage Scrub (CSS). The final coastal sage scrub acreage will reflect the revisions to the HMP required by Special Condition No. 2.

The area nearest the proposed residential development is proposed to be revegetated with a native grassland palette that meets the fuel modification requirements of the City of Huntington Beach Fire Department (see Exhibit 14). The area northwest of the northern eucalyptus ESHA, outside the fuel modification area, is also proposed to be planted with a native grassland palette because the topography and soil within this area are more suitable to support grassland species than shrub species. This area is expected to support a greater diversity and density of species than the other two grassland revegetation areas. Grassland will also be more favorable for raptor foraging. The VFPP, the wetland buffer area west and south of the EPA wetland, and the area nearest the CP wetland (not including the southern eucalyptus ESHA) are proposed to be revegetated with native coastal sage scrub plant palettes.

i. Grassland

The grassland plant palette is not modeled after any specific native grassland area, as there are no pristine native grasslands left in coastal Orange County, but is proposed to include plants common to Orange County grasslands, with limited cover by native shrubs and succulents common to grassland habitats within coastal Orange County. The species selection is based on the plan preparers' knowledge of the ecology of the area. Because the existing vegetation is predominantly ruderal and agricultural, it is not the objective of the revegetation to restore habitat to preconstruction conditions, nor to duplicate a specific natural plant community. Rather the goal of the grassland revegetation is for the area to function as a buffer between the proposed residential development and the adjacent open space while also providing improved habitat value for local wildlife.

Grading in the grassland revegetation area is proposed in conjunction with construction of the EPA wetland and buffer. Grading will also aid in removal of the seed bank of nonnative species. Areas not proposed for grading will be weed-whipped to remove existing vegetation. Areas of overcompaction (roads, trails) will be ripped to facilitate growth of revegetation species. The area will also be evaluated by the applicant's restoration ecologist for the need for a "grow/kill program to reduce nonnative annual grasses and forbs prior to planting. Trash and debris removal is also proposed. In addition, temporary, above grade irrigation is proposed.

ii. Coastal Sage Scrub

Coastal Sage Scrub (CSS) revegetation is proposed to provide greater biodiversity within the proposed CSS areas and to provide enhanced foraging habitat for raptors and other native species on site. Currently these areas are vegetated in ruderal, nonnative species. Depending on factors such as slope, aspect, hydrology, and soil type, the proposed habitat may trend toward a more dense CSS shrub community, while in other areas the habitat may trend toward a more open CSS-grassland ecotone.

Portions of the proposed CSS areas will be graded for construction of the VFPPF and the EPA wetland and buffer. Grading will also aid in removal of the seed bank of nonnative species. Areas of overcompaction (roads, trails) will be ripped to facilitate establishment and growth of revegetation species. Areas containing dense population of southern tarplant within the CP area will not be ripped. Topsoil will be collected prior to ripping from those CP areas containing sparse populations of southern tarplant and distributed in openings within the CSS revegetation areas following ripping. Removal of trash and debris is also proposed. The area will also be evaluated by the applicant's restoration ecologist for the need for a "grow/kill program to reduce nonnative annual grasses and forbs prior to planting. Temporary, above grade irrigation is proposed.

Monitoring of the CSS revegetation area is proposed over the life of the 5-year establishment period. Monitoring will include site visits, surveys, and documentation. Monitoring will continue until the performance standards are met. Annual reports will be generated based on the monitoring. The proposed monitoring and maintenance program includes interim performance goals and final maintenance monitoring requirements, and final success criteria.

Once the final success criteria have been met, the HOA would be the responsible party for long-term maintenance of the revegetated areas. General long-term maintenance is proposed to consist of trash and debris removal, and weed eradication and management. In addition, every five years the HOA will be required to hire a qualified biologist to conduct a qualitative analysis of the revegetation site and if it does not meet the final performance standards, remedial measures will be developed and implemented in consultation with the Executive Director of the Coastal Commission.

d) Natural Treatment System (NTS)

A Natural Treatment System is proposed within the area land use designated and zoned conservation. Specifically regarding the subject site, the certified LCP identifies an NTS system as a potentially allowable use within the southern eucalyptus ESHA buffer as follows: *“Uses allowed within the ESHA buffer are limited to: ... 5) within the southern grove ESHA buffer only - a water quality Natural Treatment System may be allowed so long as it is located in an area that is most protective of coastal resources and at least 246 feet from the ESHA”*. The proposed NTS location meets the distance requirement from the ESHA. As proposed the NTS is more than 300 feet from the closest portion of the southern eucalyptus ESHA. Moreover, in approving the LUPA for the subject site the Commission found: *“An NTS within the [southern eucalyptus] ESHA buffer, subject to the setback described above, would be acceptable because it would occupy only a very small portion of the overall buffer area. Furthermore, the NTS itself will provide some habitat value. The shallow water habitat will increase the variety of habitats within the buffer area. For these reasons, allowing an NTS type system within the outer ESHA buffer as shown on Attachment C, exhibits 1 and 2 would not be expected to degrade the ESHA and would be compatible with its continuance.*

The proposed 1.6 acre Natural Treatment (NTS) will treat drainage from the Slater Forebay (located on the opposite side of the Co5 channel from the subject site), which will collect storm water and urban runoff from the proposed Parkside development and watershed areas tributary to the Slater Channel. The NTS will consist of two forebays and two larger water treatment basins. As part of the normal operation of the NTS, water from the Slater Forebay will be pumped through a “CDS” type hydrodynamic separator for removal of trash and sediment and then into the NTS Forebays for further desiltation, and will eventually flow into the larger basins. From these basins, water will be directed to flow into the EPA wetland or the CP wetland as needed, or into the Co5 channel. The goal of the Natural Treatment System is to create perennial marsh habitat at the NTS site that will be similar to nearby existing wetland habitat and function effectively in water treatment. The marsh habitat will also provide some habitat for animal species on site.

The perennial marsh habitat proposed at the NTS site will be planted with native plant species common to native perennial marsh habitats typically found in Orange County. The objective is not to restore habitat to preconstruction conditions, because the current vegetation is predominantly ruderal and agricultural species. The plant selection is also based on the plan preparers’ knowledge of the ecology of the area and the functional requirements of the NTS.

The two larger treatment basins are to be planted with emergent wetland vegetation in the area ringing the open water area of the basin. The back slope and forebay slopes of the treatment basins’

earthen berms are to be planted with saltgrass and pickleweed. Planting is proposed via the hydroseed method.

Proposed NTS grading will consist mostly of creation of the earthen berms to create the two smaller settling basins and the two larger forebays. Grading will also aid in removal of the seed bank of nonnative species. Removal of trash and debris is also proposed. The area will also be evaluated by the restoration ecologist for the need for a “grow/kill program to reduce nonnative annual grasses and forbs prior to planting. Temporary, above grade irrigation is proposed.

A constant source of water is proposed to be supplied to the NTS from the Slater Forebay, and the NTS is designed to operate at a relatively constant water level. As proposed, the quantity of water passing through the system may be adjusted to affect residence time, but this is not expected to affect the habitat. Thus, constant soil saturation along the edge of the open water is expected to support aquatic plant species. The deep portions of the basins are designed to be too deep to support plants, thereby providing open water habitat. The tops of the berms are expected to contain sufficient water from wicking, which when combined with evaporation from these soils will create saline conditions that will support typical brackish marsh species.

The proposed monitoring program requires site inspections, surveys in the spring of each year, preparation of field memorandums, preparation of annual monitoring reports, and assessment of performance goals. Final monitoring, no sooner than 3 years following the end of all remediation activities and no later than 7 years following installation, is also proposed. If the final report indicates that the revegetation has been unsuccessful based on the approved performance standards, remedial measures are required. Remedial measures are proposed to be developed in consultation with the Commission staff and approved by the Executive Director prior to implementation. The annual monitoring report will be submitted prior to September 1 of each year to the Executive Director of the Commission.

The NTS is proposed to be constructed by the applicant and dedicated in fee to the City of Huntington Beach. Once the NTS has achieved final performance criteria to the satisfaction of the Executive Director of the Commission, the City will be responsible for long term maintenance of the NTS site. Long term maintenance is proposed to include trash and sediment removal and control of invasive woody species.

e) HMP Public Access

Public parks and a public trail system are proposed as part of the overall development project. Some of the trails and park area are proposed adjacent to open space conservation habitat areas. An exclusionary fence will separate the developed (parks, trails, road, residential) areas from the protected conservation open space and the NTS. Above grade the fence is proposed to be 3½ feet of wire mesh (1' x 4" openings), topped with 3 rows (totaling 1 foot in height) of cable. The fence will begin along the northerly property line, south of the informal public trail within proposed Lot CC and traverse along the western edge of the passive park to the EPA wetland buffer. The fence will then follow the easterly edge of the EPA wetland buffer to the edge of the NTS. The NTS, the VFPF north of the Vista Point, and the CP wetland area will also be fenced to keep the public and

domestic animals out of the resource areas. The public access areas have been described in greater detail earlier.

f) Wildlife Protection and Domestic Animal Control Plan

The proposed HMP includes a Wildlife Protection and Domestic Animal Control Plan. The proposed residential development associated with the proposed project has the potential to introduce a higher number of dogs and cats into the restored habitats, wetlands, the nearby ecological reserve, and other surrounding open spaces. Domestic cats particularly have been shown to have a detrimental effect on bird populations in natural areas adjacent to residential developments, especially birds that nest on or near the ground. Several endangered and sensitive species, such as Belding's savannah sparrow and western snowy plover, nest on or near the ground within the nearby reserve and surrounding open space. Unleashed dogs can also cause disturbance to nesting and foraging birds.

To address these issues, the Wildlife Protection and Domestic Animal Control Plan proposes the following measures: providing wildlife information to each resident including descriptions of the threatened and endangered wildlife that inhabits the surrounding open space, keeping pets indoors or in fenced yards to contain them and keeping them out of the habitat areas, directing lights to avoid "light spill" into the habitat areas, maintaining fencing adjacent to open space habitats in tact; prohibiting the use of rodenticides within and around the conservation/open space areas; and feral cat removal program (pets should be tagged to avoid removal). These restrictions are proposed to be placed in the project CC&Rs and will be enforced by the HOA. These restrictions will also be contained in a resident education pamphlet distributed to all new residents via a brochure upon purchase of residential property, and reminders will also be distributed at least annually via the HOA newsletter or similar communication.

g) Habitat Management Plan Area - Ownership

The proposed HMP will cover area proposed to become Lots Z, AA, BB, CC (proposed Lots BB and CC are required to be combined as a special condition of this permit) of TTM 15377 and Lot 1 of TTM 15419. In addition, the HMP will cover proposed Lots X (Natural Treatment System) and proposed Lot Y (Vegetated Flood Protection Feature). Lots Z, AA, BB, CC of TTM 15377 and Lot 1 of TTM 15419 are proposed to be dedicated in fee to the HOA created as part of this project. Subject to approval of an amendment to this permit or a new coastal development permit, the habitat lots to be dedicated in fee to the HOA may be transferred to a public agency(ies) or non-profit entity(ies) acceptable to the Executive Director. Lot X is proposed to be dedicated in fee to the City of Huntington Beach. Lot Y is proposed to be dedicated to the County of Orange.

4. HMP - Special Conditions

Overall, the HMP must be implemented as proposed with a few exceptions.

On page 4-17 and page 6-17, there is a statement that allows remedial measures, as needed, to be developed in consultation with CCC staff and approved by the Executive Director of the Coastal Commission. However, changes to remediate the portions of the Habitat Management Plan that

turn out to be unsuccessful must be subject to a greater degree of review than is proposed. In order to assure in-depth review of any remediation measures and consistency with the intent of the approved HMP as well as with the ESHA and wetland protection policies of the certified LCP, remediation changes must be reviewed as an amendment to this coastal development permit, unless the Executive Director determines that none is legally required.

In addition, the proposed HMP does not require that all quantitative sampling be based on spatially stratified, randomly placed sampling units. Without employing this method of sampling, the resultant data is not as accurate or useful. Thus, the HMP must be revised to require that all quantitative sampling be based on spatially stratified, randomly placed sampling units.

In Appendix A (Maintenance and Monitoring Schedule), the “long-term *maintenance* plan” is used, however, everywhere else in the HMP the term used is “long-term *management* plan”. In order to be clear and consistent, the term “management” should also be used in Appendix A (Maintenance and Monitoring Schedule) to avoid confusion and assure that HMP is implemented as intended.

In September 2012, the Commission issued Consent Cease and Desist Order CCC-12-CD-10 and Consent Restoration Order CCC-12-RO-10 as proposed by staff to resolve Coastal Act violations that occurred on the project site consisting of fill of the wetland known as the EPA wetland and fill of a portion of the wetland known as the CP wetland, as well as adjacent areas. Under the terms of the Consent Orders, Shea Homes has agreed to resolve Coastal Act violations by, amongst other things, restoring the areas subject to the unpermitted development. The proposed HMP is required by Special Condition No. 2 to be revised to reflect the changes required by the Consent Orders including the increase in areas dedicated to wetland creation/restoration.

And finally, although it has nothing to do with the proposed habitat restoration, a gate is shown across the top to the VFPP/Vista Point trail. As described earlier, this gate would interfere with established informal public access and so must be eliminated. The gate is shown on various exhibits/figures in the HMP, consequently those exhibits/figures must be replaced with ones that do not include the problematic gate. As described in the public access section of this report, a special condition is imposed requiring that the all reference to the gate be eliminated from the proposed project. However, other than the details described above, the HMP is consistent with the policies of the certified LCP regarding protection of ESHA and protection of wetlands. It is important to assure that the Habitat Management Plan is implemented as conditioned. Therefore, the Commission imposes Special Condition No. 2 requiring that the Habitat Management Plan be implemented as proposed with the exceptions described above. Only as conditioned can the proposed project be found to be consistent with the City’s certified LCP.

G. Cultural Resources

The City’s certified LCP includes the following policies:

C 5

Promote the preservation of significant archaeological and paleontological resources in the Coastal Zone.

C 5.1

Identify and protect, to the maximum extent feasible, significant archaeological, paleontological and historic resources in the Coastal Zone.

C 5.1.2

Where new development would adversely impact archaeological or paleontological resources within the Coastal Zone, reasonable mitigation measures to minimize impacts shall be required.

In addition, Policies C 5.1.3 and C 5.1.5 require coordination with the County Coroner, the Native American Heritage Commission, and the Most Likely Descendant. Also, Policy C 5.1.4 requires that Archeological research design for development proposed within area containing archaeological resources.

Additionally, the certified Land Use Plan, Table C-2 (Community District and Subarea Schedule), subarea 4-K for the Parkside Estates area contains the following Design and Development Standards and Principles, which include requirements aimed at protecting archaeological resources:

A development plan for this area shall concentrate and cluster residential units in the eastern portion of the site and include, consistent with the land use designations and Coastal Element policies, the following required information (all required information must be prepared or updated no more than one year prior to submittal of a coastal development permit application):

- 3. Archaeological Research Design consistent with Policies C5.1.1, C5.1.2, C5.1.3, C5.1.4, and C5.1.5 of this Coastal Element.*

The Huntington Beach LCP Implementation Plan for the Parkside Estates area contains the following development standard in Chapter 230, Site Standards, to carry out the protection of archaeological resources:

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.

Thus, the City's certified LCP 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, such as with the adjacent Hearthside Homes Brightwater project site, previous Commissions, beginning in the early 1980's, approved archaeological research designs (ARD) with the goal being the complete excavation of Native American archaeological resources. This was done for the purpose of analyzing the artifacts and features, as well as human remains, in order to gain knowledge of prehistoric culture and conditions. The Native American human remains and associated grave goods were reburied elsewhere on the project site, but artifacts and features were sent to museums. This method of mitigation also served to allow property owners to subsequently develop the site with residential or other types of development unconstrained by buried cultural resources since they were able to relocate any existing archaeological resources elsewhere on the site. Increasingly, Native Americans, as well as some archaeologists and environmental groups have found these mitigation practices to be objectionable and have petitioned the Commission to require ARDs that avoid impacts to archaeological resources by requiring that archaeological resources remain in place, especially Native American human remains.

Known Archaeological Sites Nearby and Within the Project Site

There are several known archaeological sites within the vicinity of the project site including CA-ORA-85 the Eberhard Site, located west of Bolsa Chica Road on the Hearthside Homes Brightwater project site located on the upper bench of the Bolsa Chica mesa, on the west side of Bolsa Chica Road.

Perhaps one of the most significant known archaeological sites in the region is CA-ORA-83, known as the "Cogged Stone Site". The archaeological site, located on the upper bench of the Bolsa Chica Mesa, is dated at 9,000 years old. ORA-83 is called the "Cogged Stone Site" due to the extensive

number of cogged stone and other 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 as well as federally recognized by a determination of eligible for listing in the National Register of Historic Places by the Keeper of the Register. In addition to cogged stones, a significant number of Native American burials were found within and adjacent to the mapped archaeological site. ORA-83 is considered a prehistoric Native American cemetery by several Native American tribal groups as well as by the Native American Heritage Commission. CA-ORA-83 lies primarily on the southeastern portion of the 105-acre Brightwater residential project site. Although several archaeological investigations on the upper bench of the Bolsa Chica Mesa took place prior to the Coastal Act, the predecessor companies to Hearthside Homes received several coastal development permits, beginning in the early 1980's, to conduct archaeological research, salvage and relocation of human remains and grave related artifacts that were found. The archaeological research, salvage and reburial took place over the course of approximately 28 years with the final reburial occurring in spring 2009. Approximately 160 human burials, several animal burials, over 100 significant archaeological features such as house pits, rock pits, and hearths and tens of thousands of beads, charmstones cogged stones and other artifacts have been found on CA-ORA-83. Although several synopsis reports have been written concerning the cultural resources found at the Brightwater site, the final archaeological report is still pending.

The "Cogged Stone Site" is also known as CA-ORA-83/86/144 to reflect the thinking of some archaeologists that ORA-83 is more than one archaeological site. The applicant's archaeological consultant, LSA Associates, Inc., cites another archaeologist's description of CA-ORA-83 (Dillon, 1997) in describing the archaeological site as CA-ORA-83/86/144. On the Goodell site, located on the western property boundary of the subject site, CA-ORA-83 is described by the archaeological consultant, Scientific Resources Surveys, Inc., as 'CA-ORA-144 "The Water Tower Site" (a part of CA-ORA-83, "The Cogged Stone Site")'. Regardless of the terminology used to describe the CA-ORA-83 archaeological site, it is thought to be an extensive site, extending onto several adjacent properties.

As previously stated, CA-ORA-83, lies primarily on the Hearthside Homes Brightwater project site, but it also extends onto other adjacent sites. The archaeological site also extends underneath Bolsa Chica Road and onto Hearthside Homes the "Ridge" project site, the Goodell site located immediately adjacent to the subject Parkside Estates project site, as well as on the subject Parkside Estates project site (See Exhibit 20). Hearthside Homes "Ridge" project site is located immediately northwest of the subject project site in the City of Huntington Beach and is covered by the certified Huntington Beach Local Coastal Program. That site has undergone numerous surface and subsurface archaeological investigations. A hand excavated test pit dug on that site revealed the presence of a prehistoric house floor and associated artifacts. On August 17, 2010 the City of Huntington Beach submitted an LCP amendment request for the "Ridge" project site proposing to change the land use designation from Open Space – Parks 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). The LCP amendment application is still incomplete at this time.

The Goodell project site is located immediately west of the subject Parkside Estates project site. Unlike the adjacent sites, very little site-specific archaeological investigation has occurred on the

Goodell site. The only site specific, subsurface work that has been conducted on the Goodell site is two hand excavated units dug in 1963. However, on April 16, 2010 the Executive Director approved an exemption [5-10-035-X (Goodell)] to carry out archaeological investigation with the use of ground penetrating radar in order to further refine the required archaeological research design (ARD) plan for that site. Other than the placement of stakes to mark grids, no ground disturbance or subsurface excavation or earth movement was permitted. On June 6, 2011 the application to carry out a detailed ARD on the Goodell site was completed. Application 5-10-258(Goodell) is scheduled to be heard by the Commission in November 2011.

As mapped, a small portion of CA-ORA-83 extends onto the westernmost portion of the project site, on the slope of the upper bench of the Bolsa Chica Mesa. The majority of the western portion of the project site has a land use designation in the certified LUP of either Open Space Parks or Open Space Conservation due to the wetlands and ESHA resources, which allows very limited uses.

There are also other mapped archaeological sites on the subject project site. CA-ORA-1308 and CA-ORA-1309 were previously mapped on the central and eastern portions of the project site within the area planned for residential development. However, the applicant's archaeological consultant, LSA Associates, Inc., contends that these sites are not in fact archaeological sites, as explained below.

Previous Archaeological Investigations on the Project Site

Previous archaeological testing has already been implemented on the project site. In 2004, 2009 and 2010 archaeological testing was carried out on the Parkside Estates site regarding CA-ORA-83/86/144, CA-ORA-1308 and CA-ORA-1309. The previous archaeological investigations consisted of both surface survey and subsurface testing.

CA-ORA-83

As stated above, a portion of the highly significant archaeological site CA-ORA-83, the "Cogged Stone Site" extends on the western slope of the project site. For this reason special concern was raised when it was discovered that the required flood protection feature may impact the archaeological site. For the reasons detailed below in Section H. 1. Hazard of this staff report, and the findings for CDP application 5-11-011(Shea Homes), which is incorporated as if fully set forth herein, the project site must provide flood hazard mitigation to protect the surrounding neighborhood as well as the subject project site. It has been determined that the only method to provide the required flood protection to effectively protect against flooding and liquefaction is to tie a subsurface barrier structure into the competent bluff at the northwest property boundary and the existing East Garden-Grove Wintersburg Flood Control Channel (EGGWFC) at the southwest end of the site.

The certified Land Use Plan requires that new development of the Parkside Estates site be consistent with the archaeological policies contained elsewhere in the Coastal Element that were not modified in conjunction with the recent LCP action regarding the Parkside Estates site. The LUP requires that adverse impacts to archaeological resources be avoided where feasible and reasonable mitigation for unavoidable impacts be implemented in conjunction with future site development.

Further, the Parkside Estates Implementation Plan amendment requires that an archaeological research design (ARD) be carried out for the subject site prior to review and approval of the application for the future development of the site. An ARD is required when there is a mapped archaeological site on a project site or the site is otherwise known or expected to contain archaeological resources. The ARD provides information, based on subsurface investigation among other things, on the location and extent of any intact midden, significant archaeological features, artifacts or human remains and allows the subsequent development proposal for the site to be designed in a manner that is most protective of any existing archaeological resources.

In this case, the project site has been subject to previous archaeological investigation and subsurface testing as outlined above. Previous archaeological investigations have determined that the potential for the presence of archaeological resources is located within the portion of the site that has been designated and zoned for open space-conservation use. Normally, the open space-conservation land use and zoning would not allow the type of development that would impact buried archaeological resources. Therefore, there is no need to carry out subsurface investigations in the form of a typical ARD in an area that will not be developed since the investigations all involve potential adverse impacts to any existing resources, to some extent or the other. The applicant initially applied to carry out a proposed ARD as required by the LCP. All likely feasible geotechnically sound alternatives for the required structure would impact the mapped archaeological site since it has to tie into the bluff and the archaeological site is located at the edge of the bluff. However, staff objected to the proposed ARD due to the avoidable significant impacts to any intact midden and/or features that may be present on the project site and did not have as a goal the avoidance of impacts to any archaeological resources that may be present on the site. Instead the applicant applied to carry out a combined geotechnical and archaeological investigation since the area is designated and zoned as open space and the only development that would be allowed in the archaeological site is a subsurface flood protection device.

On February 9, 2011 the Commission approved the applicant's request to conduct a geotechnical investigation, co-directed by a geoarchaeologist and an archaeologist, in order to determine the feasible alignment for the future subsurface flood protection feature (which is vegetated above ground) while minimizing impacts to the mapped archaeological site since it was determined that the only effective alignment would have to tie into the bluff containing a portion of CA-ORA-83. The approval was subject to special conditions requiring: (1) the submittal of grading plans that are substantial conformance with the proposed project description; (2) conformance with the proposed construction staging plan in order to avoid impacts to the adjacent ESHA and wetland areas and minimize impacts to the ESHA and wetland buffers; (3) that the applicant carry out the proposed geotechnical investigation in a manner that is most protective of the mapped archaeological site, as proposed in the January 17, 2011 project description, as revised January 21, 2011 and a procedure to resolve any disputes in the field regarding the discovery of and/or the significance of archaeological resources arising among the soils engineer, geo-archaeologist, archaeologist, and/or the Native American monitors; (4) and to prepare a report at the conclusion of the investigation detailing the findings of the investigation regarding the discovery of intact midden or significant archaeological resources and including the recommended route of the VFPP; (5) that the Southern tar plant and seed bank within the work area be removed prior to grading and reserved within the fenced work area until it can be replanted in a permanent open space area in conjunction with the pending Parkside Estates development or a subsequent coastal permit application; (6) the

prohibition of grading or mechanical augering within 500 feet of an occupied raptor nest during the nesting season (February 15 through August 31); and the implementation of grading or mechanical augering within 500 feet of an occupied raptor nest during the nesting season (February 15 through August 31); and the implementation of grading or mechanical augering within 500 feet of an occupied raptor nest during the nesting season (February 15 through August 31); (7) and the implementation of construction best management practices and good housekeeping practices to prevent impacts to the adjacent marine resources.

The applicant carried out the approved geotechnical/archaeological investigation in February 22-24, and 28 and March 1-2 and 29, 2011. The initially approved trench was subsequently allowed by the Executive Director to be extended by 40 additional feet in length because the applicant encountered unexpected fill material on the bluff instead of competent soils. According to the required investigation monitoring report, dated April 27, 2011, during the implementation of the approved investigation a probable significant archaeological feature was encountered (a house pit). However, impacts to the feature were avoided and a geotechnically feasible alignment was determined for the required VFPP. According to the monitoring report six bone fragments were also found in disturbed fill material, not in intact midden soils. However, the excavated fill material was left at the side of the trench where the fragments were found to allow for screening in the event the fragments were determined to be human, and if the MLD wanted the material to be screened. The bone fragments were immediately turned over to the Orange County Coroner who determined them to be non-human. One of the Native American representatives present during the investigation requested that the fragments be analyzed to determine what animal they represented. The applicant arranged for this testing to be done. Subsequently, on June 21, 2011 during backfilling of the extended trench, thirty-six additional bone fragments were found within the fill material that had been excavated from the trench. The work was performed by hand shoveling, in the presence of the project archaeologist and the Gabrielino Native American monitor. According to the project archaeologist, the Coroner was called but declined to inspect the additional fragments. The Coroner's office instead suggested that the additional fragments be sent to Dr. Thomas Wake, Director of the Zooarchaeology Laboratory at UCLA, the same place that had analyzed the previous six bone fragments. Dr. Wake also determined those fragments to be from large mammals, specifically, even-toed ungulates such as deer, sheep, pigs, etc.

An unexpected procedure occurred in the implementation of the approved geotechnical/archaeological investigation. According to the required follow up report, the applicant followed the applicable State law requiring notification of the County Coroner upon the discovery of bone fragments in order to determine if they were human. However; the bone fragments were removed from the site by the applicant and taken to the Coroner for this determination. As it turns out, the bone fragments were (1) not human and (2) not found in intact midden soils so there was no adverse impact associated with this action. However, in cases where the bone fragments are human and/or found in intact midden soils, premature removal of bone fragments could result in unnecessary adverse impacts. Because the goal of any archaeological investigation is to minimize impacts to significant archaeological resources and avoid the complete exposure (and removal of) of buried human remains, the Coroner should be called to the site, and the minimum amount of a bone fragment should be exposed, to allow the Coroner to carry out required analysis. Special Condition 8, Protection of Potential Archaeological Resources During Grading, requires that maximum efforts be taken to minimize impacts to human remains and grave-related artifacts, traditional cultural sites,

religious or spiritual sites, or other artifacts. The requirements of Special Condition 8 are explained below.

The Commission finds that the portion of CA-ORA-83 located on the subject site will be protected from impacts from grading and development associated with the proposed project because (1) the applicant has carried out a geotechnical/archaeological investigation that has determined a geotechnically sound alignment that will not impact any intact midden or archaeological resources, (2) the Commission imposes Special Condition 8, Protection of Potential Archaeological Resources During Grading, to deal with any unexpected discovery of archaeological resources.

CA-ORA-1308 and CA-ORA-1309

There are also other mapped archaeological sites on the subject project site. CA-ORA-1308 and CA-ORA-1309 were previously mapped on the eastern and central portions of the project site. However, the applicant's archaeological consultant, LSA Associates, Inc., contends that those sites are not in fact archaeological sites. LSA explains that the geotechnical boreholes and trench evidence indicates that the sparse shell identified by initial archaeological surveys as possible archaeological sites is naturally occurring or imported shell spread across the project area by repeated disking. The shell was initially introduced onto the site by either as dredge material from the adjacent East Garden Grove-Wintersburg Flood Control Channel used to construct the Graham Street ramp; fill from the former equestrian facility that was located near the levee; or through excavation for storm drain or agricultural water lines where naturally existing shell as a remnant of prehistoric Bolsa Bay was dug up and subsequently spread across the site through agricultural disking. LSA explains in their letter dated April 27, 2011, "Response to Questions Regarding the Potential for Cultural Resources Outside of Archaeological Site CA-ORA-83/86/144 on the Shea Homes' Parkside Estates Property, Huntington Beach, California":

When CA-ORA-1308 and CA-ORA-1309 were first recorded in 1991, they were described as light-density shell scatters situated on the eastern edge of an agricultural field. The recorders remarked that with the exception of one *Mytilus* spp. shell fragment, the composition of the shell was not inconsistent with what might occur naturally and that subsurface testing and geomorphic studies would be needed to establish whether the sites represented archaeological remains (Ferraro and Beckman 1991a).

Accordingly, archaeological studies conducted by LSA in March 2004 demonstrated that the two sites are not archaeological deposits. The studies consisted of: (1) a review of previous archaeological investigations of the project area; (2) a review of geotechnical investigations of the project area; (3) controlled surface collections within the boundaries of CA-ORA-1308 and CA-ORA-1309, as well as CA-ORA-83 and non-site areas; and (4) a surface survey.

(1) Review of Previous Archaeological Investigations of the Project Area. The previous archaeological investigations included the original site forms recording sites CA-ORA-1308 and CA-ORA-1309 (Ferraro and Beckman 1991a, 1991b); the original cultural resource document that discusses these sites (de Barros 1992); and a more recent cultural resource report that also discusses the sites (Dillon 1997). Both the original site forms (Ferraro and

Beckman 1991a, 1991b) and the cultural resource document first describing CA-ORA-1308 and CA-ORA-1309 (de Barros 1992) call into question the validity of the sites. Subsurface testing and geomorphic studies are identified by both of these references as the manner by which to resolve the validity of these sites as archaeological sites. Dillon (1997), with no more than an aerial photograph of the project area, argued that both CA-ORA-1308 and CA-ORA-1309 were archaeological deposits.

The geotechnical report documents that past land use of the parcel has been agricultural and further describes the existence of a 60-inch storm drain buried 6–9 ft below existing ground level in the northern portion of the project area (Pacific Soils Engineering, Inc. 1998). The burial of this storm drain has important implications for the presence of marine shell from the northern portion of the project area near what has been recorded as CA-ORA-1309. A buried gas line is also described near the western boundary of the project area. These results are consistent with the results of previous geotechnical investigations conducted by Stoney-Miller Consultants and LeRoy Crandall & Associates (Pacific Soils Engineering, Inc. 1998: Appendix III, Sections B and C, respectively).

(3) Surface Collection. The goal of the LSA March 8, 2004, surface collection was to obtain samples of visible surface shell and artifacts from various 1 x 1 meter (m) grids across the parcel without disturbing subsurface deposits. The 1 x 1 m sample grids were delineated with a prefabricated 1 x 1 m aluminum grid. In this manner, the surface collections were comparable, since the surface area of each collection grid was identical. The 1 x 1 m grids, termed Surface Collection Grids (SCGs), were placed in four locations: (1) within the previously recorded boundary of CA-ORA-1308, (2) within the previously recorded boundaries of CA-ORA-1309, (3) at the base of the mesa adjacent to CA-ORA-83, and (4) in a non-site area between the sites.

The surface collection showed that the non-site area contained a greater density of shell than either previously recorded site CA-ORA-1308 or CA-ORA-1309. It also demonstrated that, with the exception of one fragment of Pismo clam (*Tivela stultorum*) from a non-site area (SCG 7), all shell from previously recorded sites CA-ORA-1308 and CA-ORA-1309 were from a bay/estuarine environment and could be expected to occur naturally, as the area was once part of prehistoric Bolsa Bay (as demonstrated by geotechnical investigations). SCGs 2 and 3 at CA-ORA-1308 had small quantities of pearly monia (*Pododesmus cepio*), which are known to prefer a breakwater rock habitat. Breakwater-like rocks (riprap) line the East Garden Grove-Wintersburg Flood Control Channel, further strengthening the hypothesis that shell at CA-ORA-1308 is East Garden Grove-Wintersburg Flood Control Channel dredge residual used to construct the Graham Street ramp over the channel and the channel construction itself. Some of the roadway embankment has eroded onto the level portion of the field and has been disked out into the field.

(4) Surface Survey. On March 25, 2004, LSA conducted a systematic survey of the entire project area. No cultural resources were observed.

For these reasons, the applicant feels that an ARD is not necessary for CA-ORA-1308 and CA-ORA-1309 and that the above demonstrates why these are not actual archaeological sites and

therefore there is no need to carry out any additional archaeological testing prior to allowing the proposed project to go forward. Given the presence of significant cultural deposits on and adjacent to the subject site, it is necessary to impose a special condition requiring archaeological monitoring of grading on the site, and any requisite mitigation if there are discoveries of cultural deposits, to ensure that the project remains consistent with section 30244. Thus, the Commission finds that with the imposition of Special Condition 8, Protection of Potential Archaeological Resources During Grading, which requires archaeological monitoring of all grading and construction activities that may adversely impact any unexpected archaeological resources, if they exist, will provide adequate protection, as explained below.

Special Condition 8, Protection of Potential Archaeological Resources During Grading

Special Condition 8 requires that prior to the issuance of the coastal development permit approving the proposed project that the applicant prepare and submit an archaeological monitoring and mitigation plan to be implemented during all site grading and any other development activities (for example, trenching for utilities) that may impact buried archaeological resources. The plan shall provide for (1) monitoring of these activities by archaeological and Native American monitors, and the designated most likely descendent (MLD) when required by State law that an MLD be designated; (2) that a pre-grading meeting be convened on the project site involving the applicant, grading contractor, archaeologist, and all monitors and the MLD to in order to make sure all parties are given a copy of the approved archaeological monitoring and mitigation plan and understand the procedures to be followed pursuant to the plan, including the dispute resolution procedures to be followed if disputes arise in the field regarding the procedures and requirements of the approved archaeological monitoring and mitigation plan; (3) if archaeological/cultural resources are found, all grading and construction must cease that could adversely impact the resources and/or prejudice mitigation options until the significance of the resource is determined (if the resources are human remains then additional State and Federal laws are invoked). The potential mitigation options must include consideration of in-situ preservation, even if it means redesign of the approved project. The significance testing plan (STP), prepared by the project archaeologist, with input from the Native American monitors and MLD, must identify the testing measures that will take place to determine whether the archaeological/cultural resources are significant, is submitted to the Executive Director to make a determination as to whether the STP is adequate and whether the implementation of the proposed STP can go forward without a Commission amendment to the permit; (4) once the STP is implemented, the results along with the archaeologist's recommendation on the significance of the resource, made in consultation with the Native American monitors and MLD, are submitted to the Executive Director in order to make a determination as to whether the discovered resources are significant; (5) if the resources are determined to be significant by the Executive Director, a Supplemental Archaeological Plan (SAP) must be prepared, that identifies appropriate investigation and mitigation measures for the resources found, in consultation with the Native American monitors, MLD, and peer reviewers and after preparation, comments solicited and incorporated from the Native American Heritage Commission (NAHC), California Office of Historic Preservation (OHP); and finally, (6) the applicant must carry out the approved SAP after it is approved by the Executive Director unless the ED determines that the proposed changes recommended in the SAP are not de minimis and therefore must be approved by the Commission as an amendment to the permit. Further, the applicant is required to submit a final report at the

conclusion of the approved archaeological monitoring and mitigation plan that is consistent in format and content with the applicable OPH guidelines.

Special Condition 9 requires the applicant to curate any artifacts not reburied on the project site with an appropriately licensed facility, requesting such facility to agree to display the resources for public educational purposes.

Only as conditioned can the proposed project be found consistent with the certified LCP policies regarding the protection of archaeological/cultural resources.

H. Hazard

Coastal Act Section 30253 states, in pertinent part:

New Development shall:

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

This Coastal Act section has been expressly incorporated into the City's certified LCP as Policy Goal C 10.

LCP Policy C 1.1.9 states:

Minimize risks to life and property in areas of high geologic, flood (figure C-33) and fire hazard through siting and design to avoid the hazard.

New development shall be designed to assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in anyway require the construction of a protective device.

LUP Policy C 4.4.2 states:

Prohibit private development along the bluffs rising up to the Bolsa Chica mesa (the bluff face that rises above the northwestern edge of the Bolsa Chica low land) within the City's jurisdiction that would alter the natural landform or threaten the stability of the bluffs.

Drainage systems and other such facilities necessary to ensure public health or safety may be allowed provided that bluff alteration is restricted to the minimum necessary and is done in the least environmentally damaging feasible manner.

In addition, Policy C 10.1.4 states:

Require appropriate engineering and building practices for all new structures to withstand ground shaking and liquefaction such as those stated in the Uniform Building Code.

The City's certified LCP LUP Policy C 6.1.2.7 states:

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

In addition, the certified LUP, specific to the subject site, requires: "Minimization/mitigation of flood hazard shall include the placement of a FEMA certifiable, vegetated flood protection levee that achieves hazard mitigation goals and is most protective of coastal resources including wetland and ESHA". Further, the certified LUP, specific to the subject site, allows within ESHA buffer a "vegetated flood protection levee that is the most protective of coastal resources including wetland and ESHA".

The subject site and much of the surrounding area are susceptible to flooding. In addition, according to the City of Huntington Beach, and because of the present low elevation, the subject site is considered susceptible to tsunami run-up. The subject site is also subject to liquefaction. Furthermore, the proposed development must be evaluated for its ability to withstand anticipated future sea level rise (SLR).

The proposed project includes, among other things, the construction of 111 single family residences at the subject site. At the time the Commission reviewed the LUPA for the subject site, the Commission's staff geologist reviewed a great deal of technical information submitted in conjunction with the site specific LUP amendment and earlier version of the related coastal development permit application. Potential geotechnical and hydrological issues are addressed in the staff geologist's memo dated July 24, 2006. The staff geologist has indicated that his July 24, 2006 memo remains applicable to the currently proposed development. The staff geologist's memo is hereby incorporated by reference as though fully set forth herein.

1. Flooding

The subject site was once part of the extensive Santa Ana River/Bolsa Chica complex. Historically, the site was part of the flood plain. However, site modifications prior to the Commission's jurisdiction in the area (which began on 1/1/77) including construction of a dam and tidegates in the 1890s, the introduction of agricultural uses (including agricultural ditches) in the 1930s, and construction of the East Garden Grove-Wintersburg Flood Control Channel (EGGWFC) in 1959 effectively removed the site from functioning as a flood plain.

If the site were to be restored it would be a valuable addition to the Bolsa Chica wetlands restoration project. However, due to the modifications described above (and as described in “wetlands” section of this staff report), a hydrologic connection between the subject site and the Bolsa Chica wetlands no longer exists. The proposed project includes construction of the Vegetated Flood Protection Feature (VFPP). The VFPP, as proposed, will not cut off an existing hydrologic connection, as none has existed since prior to Commission jurisdiction in the area (1/1/77).

High tides combined with storm surge will create tidal flooding across the site. The neighborhood immediately north of the subject site and additional areas inland of the subject site are located within the flood path and are at lower elevations than the subject site. Portions of the subject Parkside site lie at elevations ranging from 1.9 (MSL NAVD 88) to 4.4 feet (MSL NAVD 88). Areas of the surrounding neighborhoods lie at elevations as low as 2.6 feet (MSL NADV 88) below sea level. Thus, the subject site would not retain flood waters and will not function as a protective flood plain. In a worst case flooding scenario (high tide, storm surge, and failure of the lower reaches of the levees), up to 170 acres of inland developed area would be flooded under current site conditions. See exhibit 24 for an email from Orange County Public Works – Flood Control Design regarding the need for the VFPP for areas inland of the subject site. See exhibit 25 for a letter from the City of Huntington Beach Director of Public Works regarding the need for the VFPP.

Without mitigation measures both the subject site and inland, surrounding area would be subject to flooding. In order to mitigate the flood threat, the applicant has proposed a number of mitigation measures. These measures include: improvements to the area’s drainage system consisting of a new pump facility at the Slater storm water pump station, improvements to the Co5 flood control channel north levee, and construction of a vegetated flood protection feature (described in greater detail below). Approximately 170 acres inland of the subject site is also at risk from flooding. The inland 170 acres are primarily developed with single family homes. The City’s certified LCP requires that this existing development inland of the subject site be protected from flood hazard.

The groundwater authority for Orange County is the Orange County Water District (OCWD). In a letter dated May 15, 2012, the OCWD states: “Based on OCWD staff’s review of hydrogeologic data collected from its nearby monitoring wells, we do not consider this location [the subject site] to be technically viable for surface infiltration for the purpose of groundwater recharge and storage.” See exhibit 22 for OCWD 5/15/12 letter.

a) Vegetated Flood Protection Feature

With or without development of the subject site, the inland 170 acres of existing development must be protected from flood hazard. The path the tidal flooding would follow unavoidably crosses the subject site. The only way to adequately insure protection of the inland 170 acres of existing development is to install a flood protection levee (a.k.a. VFPP) on the subject site or to the southwest of the subject site within the Bolsa Chica “Pocket Wetlands” between the Co5 flood control channel and the Bolsa Chica mesa. The proposed VFPP alignment would fall within wetland and ESHA buffer, but not within the wetlands or ESHAs themselves. The alternative location, within the Bolsa Chica pocket wetlands, would place the VFPP within wetland. Moreover, because the VFPP is proposed to be vegetated with coastal sage scrub vegetation and is expected to require only infrequent maintenance intrusions, it is expected that the VFPP itself will

provide habitat value. Thus, the proposed alternative is the least environmentally damaging alternative that would still provide necessary flood protection for existing inland development. The necessary protection of the inland 170 acres would also protect the 50 acre subject site from flooding.

A letter from the Bolsa Chica Land Trust (BCLT) dated June 3, suggests the proposed Vegetated Flood Protection Feature (VFPPF) is expressly forbidden by the certified LCP and references LUP Policy C.1.1.9 and LUP Policy C 4.4.2 stated above: The BCLT asserts these seemingly contradictory policies must be balanced in a manner most protective of the significant coastal resource [the bluff]. See exhibit 26 for the BCLT 6/3/12 letter and exhibit 27 for the applicant's response.

However, the Commission finds the VFPPF is necessary to protect existing development and although the proposed project would also be protected by the Vegetated Flood Protection Feature (VFPPF), it does not *create* the need for the VFPPF. Rather it is the inland, existing development that currently requires flood protection regardless of whether the subject site is developed. Through review of the project specific LCP amendment 1-06 and the proposed coastal development permit application, it has been determined the least environmentally damaging, feasible method for protecting the inland development is construction of the proposed VFPPF at the subject site. Furthermore, LUP Policy C 6.1.27 allows for approval of channelizations, dams, or other substantial alterations (such as the VFPPF) of rivers and streams for flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary to protect existing development. In addition, the Commission finds the VFPPF as proposed is consistent with the provisions of the certified LCP that specifically address the requirements for a development plan associated with the subject parcel. The section addressing Subarea 4K (subject site) requires a Hazard Mitigation and Flood Protection Plan including the following features: "Minimization/mitigation of flood hazard *shall include the placement of a FEMA certifiable, vegetated flood protection levee* that achieves hazard mitigation goals and is the most protective of coastal resources including wetland and ESHA". Thus, provision of the VFPPF at the proposed location on the subject site is anticipated by and fully consistent with the certified LCP as certified by the Commission.

The vegetated flood protection feature (VFPPF) is proposed within proposed Lot Y. Currently (i.e. subject site undeveloped), the approximately 170 developed acres located inland of the Parkside site are subject to tidal flooding. Flooding would likely occur when both high tide and storm surge occur at the same time as high flow in the Co5 flood control channel, causing combined tidal and riverine flows to overtop the "oil field road", continue inland across the subject site, and flood up to 170 acres of inland developed area containing about 800 homes. Thus, with or without the proposed development, flood protection is required.

The path of tidal flooding would unavoidably cross the subject site. The southwestern portion of the subject site, adjacent to the flood control levee, presents the most efficient location to install flood protection. This area in the southwest corner of the site between the flood control channel and the bluff provides a relatively narrow area within which construction of a barrier would allow the flooding to be captured and contained. This is because there is a narrow bottleneck area between the north levee (elevation at top = 13.6' MSL) of the County's Co5 channel and the adjacent

approximately 40 high bluff. Construction of the proposed “vegetated flood protection feature” (VFPP) within this narrow area between the two higher elevation areas (levee and bluff) presents the only feasible option for adequately insuring protection of the inland 170 acres of existing development. The most effective and best way to protect the inland 170 acres is to install a flood protection levee in this location. Installation of this flood protection would also result in flood protection for the 50 acre subject site. The applicant is therefore proposing to construct a VFPP in this specific location.

In order to be effective, the VFPP must be placed within area designated Open Space Conservation. More specifically, it will be located within ESHA buffer area but not within the ESHA or wetlands themselves or within wetland buffer area. In considering the appropriate land use designation for the subject site under LCP LUP Amendment 1-06, the Commission reviewed the need for a flood protection feature at the site. At that time the Commission found that some type of flood protection feature was necessary at the subject site in order to protect existing inland development from flood hazards. The Commission further recognized that it would likely be necessary to place the flood protection feature within the conservation area of the site for the reasons described above. Finally, the Commission, at that time, recognized that the VFPP would likely need to be placed within buffer area. The Commission found that placing the VFPP within buffer area was likely to be acceptable because “1) *there would only be temporary construction-related impacts, 2) once constructed, the VFPP would be planted to provide upland habitat that complements the wetland vegetation, and, 3) the VFPP would not require maintenance once constructed, thus intrusions into the buffer would be limited only to those necessary during construction*”.

The VFPP is proposed to tie into the re-constructed (per this project) north levee of the Co5. From the north levee the VFPP would continue roughly perpendicular to the levee for approximately 630 feet to the southeastern end of the Bolsa Chica Mesa bluff. The width at the top of the VFPP is proposed to be 15 feet in order to accommodate maintenance vehicles. This width also allows for public access along the top of the VFPP to just short of the midway point, where a scenic vista point is proposed. The top width of the VFPP at the vista point will be 50 feet. A 50 foot by 50 foot turnaround is also proposed at the northerly terminus of the maintenance access road (at the bluff end of the VFPP). VFPP side slopes are proposed to vary from 2:1 to 5:1 and toe out at various elevations, so the bottom VFPP width varies from 70 to 120 feet.

The top of the VFPP is proposed to be set at an average elevation of 13.6 feet (MSL NAVD 88) to match the height of the Co5 levee. Existing grades within the VFPP’s path range from -0.6 to +3.6 (MSL NAVD 88), resulting in a VFPP height above existing grade of from 10 to 14 feet. Grades rise quickly where the VFPP will tie into the bluff at its northern end.

The proposed VFPP construction will consist of installation of a matrix of deep soil-cement mix columns and soil-cement cap, and vegetated slopes on each side of the soil-cement. The columns will be cast (mixed) in place, in holes drilled by a drilling rig. The columns will penetrate a minimum of 5 feet into the dense alluvial soils underlying a layer of less dense alluvial and provide the structural core of the VFPP that is intended to provide the basis for FEMA levee certification.

Upon completion of construction and planting, the VFPP will be owned, maintained, and operated by the Orange County Public Works Department, except that the VFPP vegetation and irrigation will be maintained by the HOA.

It should be noted that construction of a flood control feature in a downstream location between the levee and the bluff might accomplish necessary flood protection. However, that location would mean construction within the ESHA and wetland of the ecological reserve, resulting in greater impacts than the proposed location. While the proposed location falls within ESHA buffer area, it would not be located within either wetland or ESHA or within wetland buffer area. In any case, construction downstream would still result in flood protection for the subject site as well as the inland 170 developed acres.

A suggestion has been made that a flood protection feature could be constructed along the northern border of the site to protect the inland 170 acres. Such a structure would need to be over 1,500 feet long (the distance from the bluff to Graham Street), bringing its feasibility into question because of the significant cost associated with constructing such a structure. Moreover, unless the structure made a right turn at the northeast property line (or some similar point) and extended across the property to the southern property boundary (a minimum distance of at least 360 additional feet), it would not stop inland flooding because it would not tie into the required higher elevation (the Co5 levee). Finally, and most importantly, such a structure would need to be constructed within ESHA (northern eucalyptus grove) in order to tie into the bluff at the westerly side of the property. Thus, such a structure would not be the least environmentally damaging, feasible alternative.

Theoretically, a flood control assessment district could be formed to provide flood protection for the subject site and surrounding area. However, the owners of the surrounding affected properties are not co-applicants in the current application and therefore flood control alternatives involving development on the surrounding properties are not before the Commission. Alternatively, the proposed VFPP could be constructed by the Orange County Flood Control District (OCFCD) which serves the subject area. However, there is currently no plan or funding in place for the County flood control district to undertake the project. The OCFCD has endorsed the proposed VFPP.

b) Drainage System Improvements

In addition to the proposed VFPP, the applicant also proposes to make several improvements to the area drainage system. These include: 1) improving the capacity and stability of the Co5 flood control channel as described below; 2) making changes to the storm drains under Kenilworth Drive and Graham Streets, improving their capacity; and 3) upgrading the Slater Pump Station by installing two more pumps. The proposed drainage improvements will not result in an increase in the areas served or to the number of people served by the existing storm drain system. However, the proposed improvements are intended to more efficiently and more safely address existing conditions. The standard of review for all work within the flood control channel is the Chapter 3 policies of the Coastal Act.

i. North Levee Improvements

The applicant proposes to construct improvements to the north levee of the County's Co5 flood control channel adjacent to the subject site. The existing steel sheet pile system was constructed pursuant to emergency coastal development permit No. 5-07-025-G, issued to Orange County Public Works. The emergency permit allowed the installation of 3800 linear feet of 30 to 40 foot deep steel sheetpile along the north levee of the Co5 flood control channel, from Graham Street to 3800 feet downstream.

The proposed levee upgrades include installation of a matrix of deep soil-cement mix columns and soil-cement cap to be placed at the landward side of the emergency sheetpiles. These columns are proposed to be cast (mixed) in place, in holes drilled by a drilling rig. The columns would penetrate a minimum of 5 feet into the dense alluvial soils lying below the existing sheet piles. As proposed, the deep soil-cement columns would top out from 2 to 12 feet from the proposed levee access road. Above the drilled columns, a variably deep soil-cement cap will be placed using general earthmoving equipment, capable of working in close proximity to the existing sheet piles. The soil-cement is proposed to be placed in lifts until just below the access road section. Finally the access road structural section will be placed above the soil-cement levee. The existing sheet pile is proposed to be finished with a continuous cap and rail to provide a 42 inch minimum height handrail system along the access trail. As described previously, a multi-use public access trail is proposed atop the levee.

The intent of the levee improvements is gain Federal Emergency Management Agency (FEMA) certification for the levee. The proposed levee work would begin at the Graham Street bridge and continue westerly (downstream) for approximately 2100 feet. At that point the flood control levee is proposed to join the proposed VFPP and the deep soil-cement mix columns would continue as part of the VFPP. No work is expected or proposed within the flood control channel itself in conjunction with the proposed levee upgrade. The proposed north levee improvements will not impact any identified wetland or ESHA.

ii. Slater Pump Station Improvements

Studies required by the City of Huntington Beach and performed by the applicant indicate that currently the Slater pump station is not able to adequately process the drainage flow it currently receives. Because the proposed development would result in an incremental increase in peak discharge from the subject site, the City required the applicant to undertake improvements to the pump station. Improvements proposed to the Slater pump station include: the addition of one 75 cubic feet per second (cfs) main pump capable of pumping about 99 cfs at an intake elevation where existing pumps cannot operate and 102 cfs at full forebay elevation; the addition of one 15 cfs sump pump to replace an inoperative sump pump. This will draw down Slater forebay and channel, creating about 40 acre-feet of additional storage capacity; the addition of five anti-vortex umbrellas for the existing pumps, increasing each pump discharge by about 40 cfs, for a total discharge increase of about 200 cfs; and the addition of small pumps and water quality continuance deflection system (CDS) to receive dry weather flow and pump it to the proposed Natural Treatment System at the subject site. The proposed improvements are intended to improve and increase the existing capacity and reliability of the Slater pump station. In addition, the proposed improvements are

expected to improve water quality in the Slater Channel by allowing the channel to drain freely. The Slater pump station service area will remain the same: 2,935 acres north and south of the Co5 channel.

iii. Storm Drain Channel Crossing

Drainage from the subject site and from the Cabo del Mar condominium development adjacent to and northwest of the site, along with drainage from the Graham Street storm drain, are proposed to be directed to a new storm drain pipe under the Co5 flood control channel. The proposed storm drain pipe will connect with the Slater pump station forebay. The first flush flows from the subject site and Cabo del Mar are proposed to be directed through a CDS or equal device prior to entering the Slater pump station forebay. Directing drainage to the Slater forebay first is expected to improve the water entering the NTS and is intended as a water quality measure.

The storm drain pipe proposed to be placed beneath the Co5 channel will be a 120 inch, single reinforced concrete pipe (RCP). The pipe is proposed to be placed on several feet of crushed rock (to improve the foundation conditions in the soils beneath the channel) and will be capped with a concrete encasement (to prevent flotation). Concrete “gaskets” will be used (in conjunction with flexible joint filler) to interface the RCP with the steel sheet piles of the channel levees. The crushed rock bedding will be terminated at the interface between the storm drain and levee lining to prevent seepage through the levees.

Major improvements to the south levee of the Co5 will be conducted by the Orange County Public Works Department pursuant to recently approved coastal development permit 5-09-209 (approved 3/9/11). At this time, the County plans to begin construction on the south levee in September of this year. The proposed storm drain pipe within the flood control channel will require construction of a connection from the storm drain pipe, through the north levee to connect with the proposed subject site drainage system and through the south levee to join the Slater Pump Station forebay.

The connection through the north levee will be constructed at the time the north levee improvements are implemented and will include cutting a hole in the steel sheet pile so that a concrete “gasket” can be poured to join the channel pipe to the Parkside pipe. However, how the connection through the south levee will be conducted will depend upon the status of the Orange County Public Works Department’s progress with its south levee improvement project (per approved coastal development permit 5-09-209). One of three possible options will be pursued. If the County’s south levee project proceeds construction of the proposed storm drain channel crossing and connection with the Slater Pump Station, then a short section of pipe will be installed with the levee in lieu of a gasket, which would then be replaced with steel sheet piling and a concrete gasket during the County’s construction of the south levee. If the County’s south levee project occurs concurrently with the proposed storm drain channel crossing, then the concrete gasket within the levee will be poured following installation of the steel sheet piling. If the County’s south levee project has not yet commenced at the time of the proposed storm drain channel crossing, then the existing south levee material will be excavated and retained by temporary shoring. Interfering portions of the Slater forebay concrete lining will be removed and replaced and backfilling would then occur. To prevent seepage through the levee walls, the concrete “gaskets” (along with anti-seepage joint materials at joins to the pipes) is proposed as a means of sealing the opening in the

steel sheet piles. In addition, the gravel bedding will be discontinuous at the concrete “gasket”, to further reduce the possibility of seepage through the levee wall.

To accomplish construction of the drainage pipe beneath the flood control channel, cross-channel cofferdams are proposed to be installed at the upstream and downstream ends of the channel crossing area, for roughly two thirds of the channel width, as well as a cofferdam running longitudinal with the channel. Construction within one-half of the channel is proposed first. Once construction in the first half of the channel is complete, the cofferdam configuration is proposed to be “flipped” about the centerline of the channel and work would begin in the second half of the channel.

Cofferdam construction is proposed to employ either temporary driven sheet piles, temporary inflatable bladders, or a temporary earthen berm, or some combination thereof. The proposed channel crossing will also require dewatering. Dewatering in the channel is proposed to include pumps placed on the subject site during the coincidental rough grading to help draw down underground water levels. The applicant anticipates additional pumps to draw down the underground water levels in the channel. The Slater pump station is proposed to be monitored as part of the proposed monitoring program of the residential areas to the north of the subject site. Water which is pumped from the channel via the dewatering pumps is proposed to be stored on the subject site, de-silted, treated (as needed), and discharged back into the channel downstream of the channel work upon certification that applicable water quality standards have been met.

A Biological Assessment and Alternatives Analysis (prepared by LSA and dated January 2010) was prepared for the proposed channel crossing work. The Assessment found that the channel, in the area that adjoins the subject site, is essentially devoid of wetland habitat. The Assessment finds that the vegetation that is present is best characterized as ruderal and indicative of urban flood control channels in coastal Southern California and consists of a mixture of ruderal upland and wetland, native and nonnative plant species. In addition, the Assessment finds that, although a number of sensitive terrestrial and bird species are known to occur in the general vicinity, including sensitive species such as the California least tern and the Belding’s Savannah sparrow, none are known to or expected to breed and/or reside within the channel. The Assessment also found that the only fish species expected to occur in the stretch of channel adjacent to the subject site, but was not found during the survey, is the arrow goby, a common native fish species. Vegetation within the channel was found to be primarily algae with some duckweed, however much of the open water in the channel was devoid of vegetation. No eelgrass was identified in the channel.

The Assessment identified three potential impacts due to the in-channel construction for the proposed placement of the storm drain pipe: sedimentation, turbidity, and disruption of flow within the channel. Sedimentation could bury invertebrates living in the channel. However, the Assessment concludes that such an impact would likely be restricted to the California hornsnail, which is a common native invertebrate, and would be relatively localized and not considered significant to the species. With regard to turbidity, the Assessment asserts that most aquatic organisms found in channel habitat likely have adapted to some degree of turbidity as storm runoff and periodic scheduled discharges from the Slater pump states are common. Thus, no impacts due to turbidity are expected. Finally, because the cofferdam will not completely block the channel at any time during construction, no blocking to the tidal flux would result from the proposed storm

drain placement. Overall, because potential impacts from construction in the channel will be of limited duration and because sensitive species are not expected to be disturbed by the project, no adverse impacts to habitat are expected due to the proposed construction within the channel.

Because the flood control channel is tidally influenced, the area or the proposed project within the flood control channel right-of-way falls within the Commission's original permit jurisdiction. The area outside the flood control channel right-of-way falls within the City's LCP jurisdiction.

c) Raised Pad Elevation

The subject site's elevation, in the area of proposed residential development, is also proposed to be raised to elevations higher than FEMA Base Flood Elevation (described in greater detail below). These higher elevations would also aid in mitigating flood hazard at the subject site. However, although the raised elevations alone could exacerbate flooding in neighboring areas, the above described drainage, levee and VFPF improvements will more than offset flooding impacts off-site.

d) Flooding - Conclusion

The Commission's staff geologist, in his 2006 memo determined that, "Together, these improvements [proposed flood mitigation measures described above] more than mitigate for the lost flood water storage caused by the addition of fill to the Parkside Estates site. According to references (9) (13) and (16) [of the memo], these improvements would remove 7000 homes from the functional flood plain, and would reduce flood elevations throughout the watershed."

2. Liquefaction/Dewatering

The soils at the subject site are susceptible to liquefaction during a major earthquake. In addition, the presence of peat could lead to settlement problems, because organic materials such as peat are subject to decay and volume loss with time. Although peat, an indicator of wetland soils, is found within these sediments, its presence does not translate into current wetland conditions because the peat is located at depths beneath which wetlands exist. In order to mitigate for the liquefaction and settlement hazards, the applicant proposes overexcavation, dewatering and recompaction in the area proposed for residential and associated development. This is proposed to be accomplished via "slot grading". This slot grading process is described as follows: excavation of soil within a designated "slot", dewater the excavation by placing the excavated material on another area of the site for drying, replace the dried, suitable soil along with imported fill. The area for drying would be located within the residential development footprint area. The "slots" would be excavated and refilled with compacted fill in a rapid 3 to 5 day turn-around. As one slot is closed, the adjacent area will be opened up, resulting in only a limited area being used for active excavation/recompaction at any one time.

The size of the slots will range depending on the actual conditions on-site at the time of grading. Generally, slot sizes are anticipated to be approximately 150 feet long by 50 feet wide. However, if the existing soil conditions are favorable, the size of the slot may be enlarged. The maximum slot size anticipated is 250 feet long by 100 feet wide. The maximum area to be under excavation at a time is not expected to exceed 20% of developable portion of the site. The average depth of soil

removal would be 10 feet over the site. However, some areas will need to be excavated to greater depths, such as in the area of the new storm drain. The maximum depth anticipated is 18 feet in the area near the flood control channel. This depth is proposed in order to provide a stable foundation for proposed storm drain improvements. All slot grading is proposed within the area of the site that is designated for residential and associated development. The slot grading is intended to both raise the building sites' elevation and mitigate for potential problems from settling, liquefaction, and lateral spreading that could occur from either development on-site or from the occurrence of a seismic event. See exhibit 23 for additional remedial grading description.

The overexcavation process is proposed to involve approximately 481,670 cubic yards of cut. Of the 481,670 cubic yards of cut material, unsuitable fill materials such as peat would be stockpiled on site for use in common landscape areas, and the remainder of the material, as well as approximately 260,000 cubic yards of imported fill, would be compacted to suitable densities to provide structural support and to prevent liquefaction. No soil export is proposed. Potential impacts due to liquefaction are also proposed to be mitigated on site with structural design features.

Since the excavations will extend below sea level, dewatering operations will be necessary. The site dewatering is proposed to be accomplished through a series of eight wells, 55 feet in depth. In addition to these deep wells, sump pumps and shallow wells and/or wellpoints are proposed. This dewatering operation has the potential to result in lowering of ground water levels off site too, which could lead to settlement problems there.

Pacific Soils Engineering, in a report titled Update of Groundwater Monitoring Program, Parkside Estates, dated May 28, 2009 provides a summary assessment of potential impacts off-site due the proposed dewatering. The conclusions of the report are based on groundwater monitoring conducted by Pacific Soils Engineering since 1999. The PSR summary report states that "groundwater levels will be drawn down locally below Parkside but levels at the edges of the project, such as the north and south boundary, will be drawn down approximately to elevations minus 8 and minus 19, respectively. These drawdown elevations are less than recorded historic lows." The summary report further states:

"Lowering of groundwater can cause an increase in stresses on underlying soils that can result in settlement. However, that response is a single occurrence under any increased stress condition. At Parkside, "low" water levels to elevations minus 23 have been recorded; thus settlements in response to that lowered water and increased stress condition have already occurred. Lowering of "perched" levels of water at or near Parkside will have no significant settlement impact. Lowering of the deep groundwater below elevation minus 23 could cause a settlement response; however, such lowered water levels will not be caused by development of Parkside. Lowering of the regional aquifer could cause a settlement response if past fluctuations are exceeded; however, such an event would be regional and locally uniform. Development of Parkside Estates has no impact on nor any control over such a regional event."

In order to mitigate for the potential hazard arising from site dewatering, the slot excavation described above, that will take place in stages, with only narrow excavations open at any one time, is proposed. The anticipated drawdown elevation is less than recorded historic lows that occur

regardless of activity on the subject site. That is, fluctuations greater than those expected due to the proposed project occur naturally in the groundwater levels at the subject site and in the neighborhood to the north, thus the proposed development is not expected to result in settlement in that area. Even so, a special condition requires that the northern property line be closely monitored, and if the monitoring reveals that drawdown to -8 feet (MSL NAVD 88) has occurred along the northern property line or to -19 feet (MSL NAVD 88) at the southeast corner of the site and/or ¼ inch of subsidence occurs at the northern property line, all groundwater pumping must cease immediately. In April 2012, the applicant installed nine benchmark monuments along the northern property line to determine a baseline elevation prior to beginning any excavation or dewatering work at the site. Subsidence monitoring is also required as a special condition of approval in the southeast corner of the site (near Graham Street and the EGGW flood control channel), and one benchmark monument was also installed there in April 2012.

Groundwater exists below the project vicinity as both perched water in the upper sediments as well as deeper, more regional water that has fluctuated between depths as high as elevation 0 to as low as elevation minus 23. The proposed dewatering will extract water from both the shallow perched zone as well as the deeper system but the dewatering will occur within the range of documented historic fluctuations.

The groundwater authority for Orange County is the Orange County Water District (OCWD). In a letter dated May 15, 2012, the OCWD states: “Based on OCWD staff’s review of hydrogeologic data collected from its nearby monitoring wells, we do not consider this location [the subject site] to be technically viable for surface infiltration for the purpose of groundwater recharge and storage.” See exhibit 22 for OCWD 5/15/12 letter.

Although the applicant has proposed a groundwater monitoring plan (Pacific Soils Engineering, May 28, 2009, Update of Groundwater Monitoring Program, Parkside Estates, City of Huntington Beach, California; and Pacific Soils Engineering, September 14, 2009, Cover Letter to Accompany Dewatering Review), and would be required by Special Condition No. 19 to conform all project design and construction to the geotechnical reports including the proposed groundwater monitoring plan, an additional special condition specifically addressing groundwater and any related subsidence monitoring is appropriate. By imposing this special condition, Special Condition No. 26, although adverse impacts to adjacent properties are not expected from the proposed project, an additional level of review will be in place and if unanticipated results from site dewatering do occur, they will be addressed prior to impacts. The monitoring plan required by the special condition must include, but is not limited to, monitoring of groundwater levels and subsidence along the northern property line and at the southeast corner of the site (which are closest to existing residential development), the method of monitoring (to include but not be limited to, minimum number and location of monitoring wells, the party(ies) responsible for conducting the monitoring, preparation of a mitigation plan for any adverse impacts identified and a time frame for preparing and submitting the required mitigation plan to the Executive Director. In addition, the monitoring plan shall include the requirement that, if the monitoring reveals that drawdown to -8 feet (MSL NAVD 88) has occurred along the northern property line or to -19 feet (MSL NAVD 88) at the southeast corner of the site and/or that ¼ inch of subsidence has occurred either at the northern property line or in the southeast corner of the site, all groundwater pumping shall cease immediately. The Commission finds that

only as conditioned is the proposed development consistent with Section 30253 of the Coastal Act regarding minimizing hazard.

The discharge from the proposed dewatering will be directed into a storm drain manhole, ultimately flowing into the Co5 flood control channel. This discharge proposal has been authorized by the Santa Ana Regional Water Quality Control Board under the project's dewatering contractor's (Foothill Engineering & Dewatering) deminimus permit RB8-2009-003.

3. Tsunami

According to the City of Huntington Beach, and because of the present low elevation, the subject site is considered moderately susceptible to tsunami run-up. In his July 24, 2006 memorandum, the Commission's staff geologist states:

The Huntington Beach lowlands are quite vulnerable to a major tsunami. A tsunami that overtopped the low berms associated with the Pacific Coast Highway and the oil filed roads in the Bolsa Chica wetland could inundate a large area of the lowlands, much of which lies below sea level. The proposed "vegetated flood protection feature" and the improvements to the north levee of the East Garden Grove Wintersburg control Channel [Co5], together with the increased pad elevation, will lower the vulnerability of the Parkside Estates site. Although the placement of fill on the site would displace flood waters into the surrounding neighborhood during a major tsunami, the "vegetated flood protection feature" does lower susceptibility of this area to smaller tsunamis.

It should be noted that elevations of surrounding development are currently lower than existing elevations at the subject site. Tsunami inundation would result in flooding of neighboring areas if a tsunami were to occur, even in the absence of the proposed project. Thus, the proposed construction of the VFPP and the upgrades to the Co5 levee will result in improved protection from tsunami both at the subject site as well as surrounding areas. Thus, the potential hazard due from tsunami is adequately mitigated by the project as proposed.

4. Sea Level Rise

For planning purposes, sea level rise of approximately 3 feet over the next 50 years is typically employed. The proposed project has been designed such that it can accommodate a future rise in sea level of 4.5 feet over the next 50 years. Thus, the potential hazard due to future sea level rise has been considered and incorporated into the design of the proposed project.

5. Assumption of Risk

The measures described above have been reviewed by Commission staff geologist and staff engineer and determined to be adequate to off-set expected impacts due to flooding, liquefaction, site dewatering, tsunami, and future sea level rise. Although the recommendations of the applicant's technical consultants have been incorporated into the design of the project in order to minimize the risk due to these hazards, the risks are not eliminated entirely. As described, the site is inherently hazardous. Given that the applicant has chosen to implement the project despite potential

risks, including those discussed herein, the applicant must assume the risks. Therefore, the Commission imposes a special condition which requires the applicant to assume the risk of the development. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand the hazards. In addition, the condition ensures that future owners of the owners of the proposed multiple lots will be informed of the risks and the Commission's immunity from liability. As conditioned, the Commission finds the proposed project is consistent with the hazard policies of the certified LCP and with Section 30253 of the Coastal Act for the work within the flood control channel.

6. Hazards – Special Conditions

As discussed above, the subject site is subject to risk from flooding, liquefaction, tsunami, and future sea level rise. However, the proposed project has been designed to mitigate these risks by incorporating measures including construction of the VFPP, upgrades to the Co5 north levee, extensive storm drain system improvements, overexcavation and recompaction of soils, and other design features. Special Condition Nos. 19 and 20 are imposed that require the applicant to conform to the geotechnical consultant's recommendations and to assume the risk of development. In addition, Special Condition No. 26 requires the applicant to monitor groundwater elevations and subsidence along the northern property line and at the southeast corner of the site, to cease work should settlement be observed, and to implement mitigation measures through a subsequent permit amendment. Therefore, as conditioned, the Commission finds the proposed development to be consistent with the hazard policies of the certified LCP, and with Section 30253 of the Coastal Act for those portions of the project located within the flood control channel, which requires that risks be minimized.

I. Water Quality

Section 30230 of the Coastal Act requires that marine resources be maintained, enhanced, and where feasible, restored. Section 30231 of the Coastal Act requires that the biological productivity and quality of coastal waters be protected. The City's certified LUP includes policies that reflect the requirements of 30230 and 30231 of the Coastal Act.

In addition, the certified LCP specific to the subject site requires that future site development include a Water Quality Management Plan as follows:

“Water Quality Management Program consistent with the Water and Marine Resources policies of this Coastal Element. If development of the parcel creates significant amounts of directly connected impervious surface (more than 10%) or increases the volume and velocity of runoff from the site to adjacent coastal waters, the development shall include a treatment control BMP or suite of BMPs that will eliminate, or minimize to the maximum extent practicable, dry weather flow generated by site development to adjacent coastal waters and treat runoff from at least the 85th percentile storm event based on the design criteria of the California Association of Stormwater Agencies (CASQA) BMP handbooks, with at least a 24 hour detention time. Natural Treatment Systems such as wetland

detention systems are preferred since they provide additional habitat benefits, reliability and aesthetic values.”

Development has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, sediments, metals, cleaning products, pesticides, and other pollutant sources.

The 50 acre project site is currently undeveloped. Under existing conditions, no runoff leaves the site during most rainfall events. However, installation of impervious surfaces and activities associated with residential development and related hardscape represent a potentially significant impact to water quality downstream of the project, which include the Inner and Outer Bolsa Bay, Muted Tidal Pocket wetlands, Huntington Harbour, and Anaheim Bay Wildlife Refuge. These downstream areas are likely to suffer increases in water quality impairment when site development produces greater volumes and velocities of runoff as well as introducing increased pollutant loads. It is important that the proposed development addresses potential adverse impacts arising due to post development runoff into the channel and significant water bodies downstream. This is especially true because little or no runoff currently leaves the site during most rainfall events.

To address these water quality concerns, and as required by the certified LUP specific to the subject site, and to protect water quality as required by the water quality policies of the certified LUP, a Water Quality Management Plan (WQMP), prepared by Hunsaker & Associates and dated 9/11/09 has been proposed by the applicant in conjunction with the proposed site development. The WQMD includes BMPs to protect and enhance water quality at the subject site and surrounding vicinity. The WQMP includes site design, source control (both structural and non-structural), and treatment control BMPs.

Site design BMPs to be incorporated into the project include: conservation of natural areas; use of pervious trails within the passive and active parks; use of native and drought-tolerant landscape materials and efficient irrigation practices; minimization of area covered by streets (narrow, shorter streets, with smaller cul-de-sacs); and use of energy dissipaters at the outfall into the NTS to reduce scour and remobilization of accumulated sediment and pollutants.

Non-structural source control BMPs to be incorporated into the project include: HOA requirements in the CC&Rs to: 1) provide water quality education and information to owners and occupants of the project; 2) provide trash management and litter control procedures, 3) maintain, inspect and clean all drainage systems, streets, and catch basins on the property prior to storm season, 4) provide and maintain efficient irrigation and proper landscape practices, 5) provide maintenance of all erosion control devices on the property. Other non-structural source control BMPs proposed include: limiting use of fertilizers and pesticides; employee training so that employees are made aware of the required BMPs; regular street sweeping provided by the City once the public streets have been accepted.

Structural source control BMPs proposed include: catch basin stenciling informing people that the basin drains to the ocean; water efficient landscape and irrigation practices including water sensors and use of programmable irrigation times; and for common area landscaping - planting material

with similar water requirements together to reduce excess irrigation runoff and promote surface infiltration.

Proposed treatment BMPs include:

1. CDS Equivalent Units

Installation of two storm water treatment devices (CDS or equivalent) are proposed to remove trash, debris, and coarse sediment from onsite and offsite dry weather nuisance flows and first flush flows. Flows discharged from Cabo del Mar and the project site will first pass through an onsite CDS (or equivalent) unit located near the intersection of Streets B and C prior to flowing offsite via storm drain pipe crossing under the flood control channel to the Slater Channel forebay. The second CDS unit will be located off site at the Slater Pump Station. The Slater Pump Station is located at the downstream end of the Slater Channel, immediately across the channel from the project site. A portion of the flows from the Slater Forebay will be directed through the second CDS unit, and then will be pumped back onsite into the two-cell NTS and/or onsite wetlands.

2. Natural Treatment System/Wetland Restoration

In approving the LUP amendment for the subject site, the Commission found:

The subject site represents an excellent opportunity to incorporate a natural treatment system, such as a wetland detention system. There are multiple benefits from natural treatment systems such as pollutant removal, groundwater recharge, habitat creation, and aesthetics. Furthermore, maintenance needs are typically more apparent and less frequent with natural/vegetative treatment systems and thus are more likely to remain effective than mechanical systems such as storm drain inserts and the like which can become clogged and otherwise suffer mechanical difficulties. If mechanical treatment control BMPs are not continually maintained they will cease to be effective, and consequently water quality protection would not be maximized.

As suggested in the LUPA findings cited above, a Natural Treatment System (NTS) is proposed. The proposed NTS system will consist of two sediment forebays, two wetland cells both with 7 to 10 day residence times for dry weather flows and 1-day residence time for storm flows, and a gravity discharge of treated flows to the EGGW Channel via gravity flow. At a minimum, the system is designed to treat wet-weather flows up to the 85th percentile. The system is designed to treat a 24-hour rainfall event from the project site by the two cell wetland treatment system.

The proposed NTS storage volume is 3.05 acre-feet. Based on Method 2 for a volume-based BMP, the WQMP required size is 2.10 acre-feet, which is 31% less than the proposed storage volume.

The proposed NTS system is expected to require minimal maintenance consisting of thinning of existing vegetation, removal of exotic plant species and removing excess silt buildup – every 5-10 years for the forebays, and every 10-20 years for the treatment ponds (i.e. wetland cells). Other than that, the areas will be left in a “natural” condition and are only expected to be disturbed in the

event of problems such as the need to remove invasive species or for vector management per Orange County Vector Control.

The proposed NTS wetland cells will include shallow areas between zero to two feet deep that can support the growth of emergent wetland plants, primarily cattails and bulrushes. The top of the berms will be planted with saltgrass and pickleweed and the back slopes of the berms will be planted with pickleweed. Some areas of the proposed NTS will be deeper open water areas about four to six feet deep that are designed to trap coarse sediments, help maintain uniform flow through the marsh (wetland cells), and aid in pathogen removal. This range of depths is expected to create more diverse habitat within the NTS wetland cells. The berms of the proposed NTS will be used to support various types of wetland plants. The berms will provide for the establishment of approximately 0.50 acre of similar wetland habitat as the nearby CP pickleweed and saltgrass wetland habitat. In addition, the proposed NTS would provide an additional 4 acres of open water and wetland area. The NTS freshwater wetland habitat in close proximity to the salt marsh areas is intended to provide an enhanced system from a regional perspective.

Proposed Lot X, which contains the NTS, is proposed to be dedicated in fee to the City of Huntington Beach for water quality purposes.

3. Conclusion – Water Quality

The benefits of the proposed WQMP must be implemented as proposed in order to assure that water quality will be protected as required by the water quality policies of the certified LCP. Therefore, the Commission imposes a Special Condition No. 18 that requires that the WQMP be implemented as proposed. Only as conditioned can the proposed project be found to be consistent with water quality policies of the certified LCP.

J. Density

The developable area of the subject site was determined based on the presence of on-site wetlands including wetlands that were filled without Commission authorization, ESHA, and necessary buffer areas. Also considered in determining the developable area was the need to minimize hazards, promote public access, preserve cultural resources, and promote water quality, as described in greater detail previously in this report and in the Commission's findings for denial as submitted and approval if modified of the City's LUP amendment request 1-06 (incorporated as though fully set forth herein). Based on all these considerations, the eastern portion of the site was determined to be developable. Consequently, the subject site is land use designated (via LCPA HNB-MAJ-1-06) and zoned (via LCPA HNB-MAJ-2-10) for low density residential development.

When the Commission approved with suggested modifications the land use plan amendment for the subject site it included a suggested modification that allowed the City to apply either the RL (Residential Low, maximum of 7 units per net acre) or the RM (Residential Medium, from 7 to a maximum of 15 units per net acre) designation to the 26.5 acre developable portion of the site. The intent of allowing a higher density at the site was, in part, to provide the option of concentrating development consistent with Section 30250 of the Coastal Act which encourages residential development to be concentrated in areas able to accommodate it. In the end, the City chose to

certify the developable portion of the site with a low density designation, consistent with the Commission's range of options. Under the low density residential designation (up to 7 units per acre), the site could allow up to 185 units within the developable, residentially zoned area (26.5 acres x 7 units/acre = 185 units). The subject project proposes 111 single family residences. Low density residential development is the preferred density by the City for this area and site. Recently, the City and Commission approved an update to the City's Downtown Specific Plan (DSP). The DSP covers the area inland from the City's pier surrounding Main Street. The approved Downtown Specific Plan update (Huntington Beach Major LCPA No. 1-10, approved by the Commission on June 15, 2011) increased the density in portions of the DSP area. The City preferred the increased density in this area because it is a mixed use area (commercial, office, residential), served by alternate modes of transportation. The City does not feel the subject site offers the same opportunities needed for higher density residential development.

In any case, as described above, the proposed residential development type and location is consistent with the certified LCP with regard to protection of coastal resources. Moreover, the proposed project's density is consistent with the density allowed at the subject site by the certified LCP. Therefore, the Commission finds the proposed project is consistent with the City's certified LCP regarding site density.

K. Unpermitted Development

The project site includes areas where violations of the Coastal Act have occurred. The violations consist of unpermitted grading resulting in fill of the wetland known as the EPA wetland and a 0.4 acre portion of the wetland known as the CP wetland, as well as adjacent areas. On September 13, 2012, the Commission issued Consent Cease and Desist Order No. CCC-12-CD-10 and Consent Restoration Order No. CCC-12-RO-10 ("Consent Orders") to resolve the Coastal Act violations.

While Shea Homes does not admit to any wrongdoing or any liability under the Coastal Act on the subject property, it has nonetheless agreed to, through Consent Orders and independent of the Commission's action on this application, resolve the issue of unpermitted grading and fill by, amongst other things, removing unpermitted fill from wetlands on site, restoring the 4 acre EPA wetland, restoring the 0.4 acre portion of the CP wetland, and providing for additional wetland restoration.

The Consent Orders are designed to be complementary to any work which may be authorized under this CDP application; portions of the wetland restoration, enhancement, and creation envisioned by the terms of the Habitat Management Plan will be addressed by the permit conditions, in addition to the Consent Orders. However, that does not affect the independent nature of each set of requirements. Commission action on this application in no way limits the responsibilities Shea Homes has under the Consent Orders.

Although unpermitted development has occurred on the project site, consideration of the application by the Commission is based solely on Chapter 3 policies of the Coastal Act and applicable policies of the certified Huntington Beach Local Coastal Program.

L. Local Coastal Program

Section 30604 (a) of the Coastal Act states:

Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

The LCP for the City of Huntington Beach, minus two geographic areas, was effectively certified in March 1985. The two geographic areas that were deferred certification were the subject site (known at that time as the MWD site), and an area inland of Pacific Coast Highway between Beach Boulevard and the Santa Ana River mouth (known as the PCH ADC). Both of the ADCs were deferred certification due to unresolved wetland protection issues. The PCH ADC was certified by the Commission in 1995.

An LUP amendment for the subject site was approved with suggested modifications by the Coastal Commission on November 14, 2007. The City accepted the suggested modifications and the LUP amendment was effectively certified in August of 2008. An Implementation Plan amendment (HNB-MAJ-2-10) for the subject site was approved with suggested modifications by the Coastal Commission on October 13, 2010. The City has accepted the suggested modifications, the Commission concurred with the Executive Director's determination that the City's action was legally adequate on November 3, 2011, and the subject site is now effectively certified.

The subject site was the City's final area of deferred certification. Certification in this area was deferred due to issues of wetland protection. However, as discussed above, this former ADC is now effectively certified. As described above, the proposed development, as conditioned, will protect wetland, ESHA, and habitat on site, will promote public access and recreation, is consistent with the hazard, water quality, cultural and resource protection policies of the certified LCP. In addition, portions of the proposed development are located within an area of the Commission's retained jurisdiction, the tidally influenced flood control channel. This portion of the proposed project, as conditioned, has been found to be consistent with the hazard, water quality, and flood protection policies of the Coastal Act. In addition, the subject is located between the first public road paralleling the sea and the sea, and the proposed project, as conditioned, has been found to be consistent with the public access and recreation policies of both the City's certified LCP and the Coastal Act.

M. 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.

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA. The City of Huntington Beach, the lead CEQA agency for the project, approved an Environmental Impact Report (EIR) for the project (EIR No. 97-2) in 2002. In 2009, the City approved an Addendum EIR to EIR No. 97-2 in 2009.

Appendix A – Substantive File Documents

Coastal Development Permit Application 5-11-068 Parkside, Shea Homes

Findings for denial as submitted of City of Huntington Beach Land Use Plan Amendment No. 1-06 as submitted (HNB-LCPA-1-06), May 10, 2007;

Findings for approval if modified of City of Huntington Beach Land Use Plan Amendment No. 1-06 (HNB LCPA 1-06), November 14, 2007;

Findings for approval if modified of City of Huntington Beach Implementation Plan Amendment 2-10 (HNB-LCPA 2-10), on October 13, 2010;

City of Huntington Beach certified Local Coastal Program

Habitat Management Plan, prepared by LSA, Inc. revised September 2011;

Water Quality Management Plan (WQMP), prepared by Hunsaker & Associates, dated 9/11/09, including the recommendations by GeoSyntec in the document titled Parkside Estates, Tentative Tracts 15377 and 15419, Water Quality Evaluation (Final), dated February 2009, and attached as Appendix E to the WQMP;

Public Trails and Access Plan Map, prepared by HSA, dated 1/11/10;

Biological Assessment. Prepared for the Parkside Estates Property, Huntington Beach, Orange County, California, prepared by LSA Associates, dated September 2009

Wetland Delineation prepared for the project site by Tony Bomkamp, Glenn Lukos Associates, dated September 1, 2009.

Wetland Delineation prepared for the project site by Tony Bomkamp of Glenn Lukos Associates, dated April 20, 2012.

Pacific Soils Engineering (November 25, 2008) Updated Geotechnical Report and 40-Scale Grading Plan Review, Parkside Estates, Tract 15377, City of Huntington Beach, California;

Pacific Soils Engineering (February 5, 2009) Response to City of Huntington Beach, Review Comment, Tentative Tract Maps 15377 and 15419, Parkside Estates, City of Huntington Beach, California;

Pacific Soils Engineering (May 28, 2009) Update of Groundwater Monitoring Program, Parkside Estates, City of Huntington Beach, California;

Pacific Soils Engineering (September 14, 2009) Cover Letter to Accompany Dewatering Review, Tentative Tract Map 15377, Parkside Estates, City of Huntington Beach, California;

Pacific Soils Engineering and Hunsaker & Associates (September 1, 2009) Rough Grading Plan for Tentative Tract 15377 and Tentative Tract 15419; Approval in Concept 9/4/09, Planning Division, City of Huntington, Nine Sheets;

Hunsaker & Associates (9/18/09) Orange County OC Public Works Department, Plans for Construction of a portion of East Garden Grove – Wintersburg Channel, OCFCD Facility No. CO5 from 2100 feet downstream of Graham St to Downstream of Graham St. and Vegetated Flood Control Facility (VFCF) from North Side of Wintersburg Channel to 600 feet North of Wintersburg Channel, Nine Sheets;

Hunsaker & Associates (9/18/09) Storm Drain Improvement Plans for Tract 15377, 2 Sheets;

Hunsaker & Associates (1/12/10) Rough Grading Plans;

Hunsaker & Associates (5/20/11) Orange County OC Public Works Department, Plans for Construction of a portion of East Garden Grove – Wintersburg Channel, OCFCD Facility No. CO5 from 2100 feet downstream of Graham St to Downstream of Graham St. and the Vegetated Flood Control Feature (VFPF) from North Side of Wintersburg Channel to 600 feet North of Wintersburg Channel, Nine Sheets;

LSA Associates, Inc., (July 14, 2011) Revised Geotechnical and Archaeological Monitoring Report, Project No. SHO1001 Phase 1;

Alta California Geotechnical, Inc. (July 21, 2011) “Transmittal of Fill Removal and Replacement Detail, Vegetated Flood Protection Feature, Parkside Estates”.

“Geotechnical and Archaeological Monitoring Report”, by Deborah McLean, LSA Associates, Inc., dated April 27, 2011.

“Revised Response to Questions Regarding the Potential for Cultural Resources Outside of Archaeological Site CA-ORA-83/86/144 on the Shea Homes’ Parkside Estates Property, Huntington Beach, California”, by Deborah McLean, LSA Associates, Inc., dated June 15, 2011.

“Analysis of Bone Fragments Recovered from Shea Homes’ Parkside Estates Project, City of Huntington Beach, Orange County, California”, by Deborah McLean, LSA Associates, Inc., dated July 20, 2011.

LOCAL APPROVALS RECEIVED: City of Huntington Beach Approval, dated 9/14/09 and 5/11/10; County of Orange Approval in Concept, dated 2/5/10; City of Huntington Beach Fire Department Memo, dated 12/10/09.

APPENDIX B

5-11-068 (Parkside/Shea Homes)

June 2012

Documents Reviewed by Staff Ecologist in Conjunction with Subject Parkside Project:

Barnes, J.R. (City of Huntington Beach). January 8, 1998. Letter to T. Dickerson (CDFG) re: "Request for comment on Shea Homes property wetlands status."

Bilhorn, T.W. (Earth Science Consultant). September 1986a. Seasonal variations in the extent of ponded surface water in the Bolsa Chica lowland, Orange County, California. A report to Signal Bolsa Corporation.

Bilhorn, T.W. 1986b. Shallow ground water system of the Bolsa Chica lowland, Orange County, California. A report to Signal Bolsa Corporation. [Not held; cited in Sanders (1987) and EPA (1989).]

Bilhorn, T.W. June 1987. Agricultural area delineation, Bolsa Chica, Orange County, California. A report to Signal Bolsa Corporation.

Bilhorn, T.W. February 25, 1995. Hydrology and cartography, Bolsa Chica Area, California. Supportive information to a Section 404 delineation. A report to D.R. Sanders & Associates.

Bilhorn, T.W. June 28, 2007. Memorandum to J. Dixon (CCC) regarding: "Bolsa Chica 'Agricultural' Area Jurisdictional Wetlands Delineation."

Bixby, M. 2005. Ponding at Shea Parkside. A website containing ground-level and aerial photographs of the agricultural area and the former county parcel owned by Shea Homes (<http://www.bixby.org/parkside/multimedia/ponding/index.html>).

Bixby, M.D. June 27, 2007. Letter to M. Vaughn (CCC) and California Coastal Commissioners regarding raptor foraging and raptor maps.

Bixby, Mark. May 28, 2012, Letter to Chair Shallenberger, members of the Commission, and staff regarding additional wetland acreage.

Bloom, P.H. (Raptor Biologist). June 5, 2002. Letter to J. Dixon (CCC) regarding white-tailed kites and golf courses.

Bolsa Chica Land Trust. June 3, 2012. Letter to Chair Shallenberger and members of the Commission.

- Bomkamp, T. (Glenn Lukos Associates). May 7, 2005a. Memorandum to J. Dixon (CCC) re: “Areas requiring clarification within May 4, 2005, technical memorandum regarding application of atypical situation methodology for Parkside Estates.
- Bomkamp, T. June 8, 2005b. Letter to J. Dixon (CCC) re: “Analysis of ‘Atypical Situation’ methodology and hydrology on the Parkside Estates site, based on historic and existing conditions.”
- Bomkamp, T. and S. Young (Glenn Lukos Associates). March 23, 2005. Memorandum to M. Vaughn and J. Dixon (CCC) re: “Explanation of apparent contradiction between photographic evidence provided by Mr. Mark Bixby relative to ponded areas on the Shea Homes Parkside Estates site and the January 6, 2004 wetland determination (WD) prepared by Glenn Lukos Associates.”
- Bomkamp, T., S. Young, and J. Harrison (LSA). May 4, 2005. Memorandum to J. Dixon and M. Vaughn (CCC) re: “Application of ‘Atypical Situation’ methodology to City Parcel, Parkside Estates project site, Orange County, California.”
- Bomkamp, T. (Glenn Lukos Associates). (February 22) 2006a. Memorandum to J. Dixon and M. Vaughn (CCC) re: “Summary of Alpha, alpha-dipyridyl Testing for WP Area, AP Area and County Parcel at Parkside Estates.”
- Bomkamp, T. (Glenn Lukos Associates). (March 30) 2006b. Memorandum to J. Dixon and M. Vaughn (CCC) re: “Alpha, alpha-dipyridyl Testing for WP Area, AP Area and County Parcel between February 24 and March 28, 2006 at Parkside Estates.”
- Bomkamp, T. (Glenn Lukos Associates). (June 5) 2006c. Memorandum to J. Dixon (CCC) re: “Expanded Discussion of Alpha, alpha-dipyridyl Testing Procedures.”
- Bomkamp, T. (Glenn Lukos Associates). (June 26) 2006d. Memorandum to J. Dixon (CCC) re: “Additional information for Parkside prepared in response to [J. Dixon’s] June 9, 2006 email.”
- Bomkamp, T. (Glenn Lukos Associates) and A. Homrighausen (LSA). February 16, 2006. Memorandum to J. Dixon (CCC) re: “Alpha, alpha-dipyridyl Testing Methodology.”
- Bomkamp, T. (Glenn Lukos Assoc.), N. Jordan (Exponent), R. Ray (Exponent). May 15, 2006. A technical memorandum to J. Dixon and M. Vaughn (CCC) re: “Additional data regarding differences between County parcel and “AL” and “WP” areas, Parkside Estates.”
- Bomkamp, T. (Glenn Lukos Assoc.) 2006. Letter report to J. Dixon (CCC) dated October 31, 2006 regarding: “Water balance/budget for WP and CP and evaluation of vegetation in WP and AP using Pevalence Index.”
- Bomkamp, T. (Glenn Lukos Assoc.) 2007. Letter report to J. Dixon (CCC) dated October 5, 2007 regarding: “Water balance/budget for EPA area.”

Bomkamp, T. (Glenn Lukos Associates). September 1, 2009. Letter report to R. Metzler (Shea Homes) regarding "Updated wetland delineation for Parkside Estates, (Tentative Tracts 15377 and 15419) Huntington Beach, Orange County, California."

Bomkamp, T. (Glenn Lukos Associates). April 20, 2012. Addendum to Parkside Estates Wetland Delineation Report dated September 1, 2009.

Boule, M., M. Dybdahl, and K. Austrian (Shapiro and Associates). April 27, 1981. final Bolsa Chica Vegetation Study. A report prepared for the U.S. Army Corps of Engineers, Los Angeles District.

Castles, J.B. (Pacific Soils Engineering). March 29, 2006. Letter report to R. Metzler (Shea Homes) re: "Update of Groundwater Monitoring, Parkside Estates, Tract 15377, City of Huntington Beach, California."

CDFG. c. 1981. Figure 1.7. to an unknown report: CDFG Wetlands Determination Map. Graphic based on compilation of four individual maps drawn on 10/7/81.

CDFG. 1981. Determination of the status of the Bolsa Chica Wetlands. A report submitted to the California Coastal Commission on December 11, 1981.

Dillingham Corporation. 1971. An environmental evaluation of the Bolsa Chica Area. Volume 1.

Division of Water Resources, California Department of Public Works. 1942. Use of water by native vegetation . Bulletin 50.

EPA, Region IX. February 1989. A determination of the geographical extent of waters of the United States at Bolsa Chica, Orange County, California.

Erickson, R. (LSA). November 13, 2006. California gnatcatcher use of the Parside Estates Property. Memorandum to J. Dixon and K. Schwing (CCC).

Exponent. 2006a. Water availability estimate for CP pre-2005 area. A technical memorandum dated October 31, 2006.

Exponent. 2006b. Water availability estimate for WP pre-2005 area. A technical memorandum dated October 31, 2006.

Feldmeth, C.R. (Ecological Consultant). August 5, 1991. Letter to L. Brose (Koll Co.) re: current characterization of the MWD property.

Findlay, C.S. and J. Houlihan. 1997. Anthropogenic correlates of species richness in southeastern Ontario wetlands. *Conservation Biology* 11:1000-1009

Fontaine, J. (Trestles Environmental Corp.). June 29, 2005. Letter report to M. Stirdivant (Bolsa Chica Land Trust) re "Assessment of 'Delineation of Wetland Subject to U.S. Army Corps

of Engineers and California Coastal Commission Regulatory Authority” Prepared by LSA Associates, Inc. May 21, 2002.”

Fontaine, J. (Trestles Environmental Corp.). June 29, 2005. Letter report to M. Stirdivant (Bolsa Chica Land Trust) re “Technical analysis regarding the jurisdictional delineation and other technical memorandum (sic) prepared for the 45-acre ‘city portion’ of the Shea Homes property in Huntington Beach, California.”

Fontaine, J. (Trestles Environmental Corp.). (June 29) 2005a. Letter to M. Stirdivant (Bolsa Chica Land Trust) re “Technical analysis regarding the jurisdictional delineation and other technical memorandum (sic) prepared for the 45-acre ‘city portion’ of the Shea Homes property in Huntington Beach, California.

Fontaine, J. (Trestles Environmental Corp.). October 8, 2005. Letter report to M. Stirdivant (Bolsa Chica Land Trust) re “Review of 1987 Huffman report and letter of conclusions for wetlands on the Shea property in Huntington Beach, California.”

Fontaine, J. (Trestles Environmental Corp.). June 12, 2006. Letter report to M. Stirdivant (Bolsa Chica Land Trust) re “Review of GLA 2006 hydric soil analysis and other comments of January 2006 J. Dixon letter regarding the Shea Homes property in Huntington Beach, California.”

Frank Havore & Associates. December 10, 1997. Biological resources assessment, Shea Homes property, project #6N153.01, Huntington Beach, California.

Frank Radmacher Associates. November 18, 2008 (Latest revision: January 7, 2010). Parkside Estates Overall Landscape Plan.

Froke, J.B. October 10, 2002. Conservation of white-tailed kites at Dos Pueblos golf links in Santa Barbara County, California. A report submitted to Culbertson, Adams & Associates.

Gill, J. (ACOE). May 20, 1992. Letter to Beveridge & Diamond, P.C. declaring the MWD property to be “prior converted cropland” and not jurisdictional under Section 404 of the Clean Water Act.

Glenn Lukos Associates. January 7, 2004. Raptor Usage and Nesting Study.

Glenn Lukos Associates. May, 2006. Summary of technical papers relative to possible wetland status of portions of the Parkside Estates site known as “County Parcel” and the “AP” and “WP” areas. A report submitted to the CCC.

Glenn Lukos Associates. June 3, 2006. Parkside Estates Summary of Alpha-Alpha Dipyriddy Testing Data January-May 2006. A tabular data sheet submitted alone.

Glenn Lukos Associates. September 2, 2009. Integrated pest management plan for Parkside Estates. A report to Shea Homes.

Hamilton, D. (Exponent). 2007. Water availability estimates for the EPA area at the Shea Homes property. A technical memorandum dated October 5, 2007 prepared for R. Metzler (Shea Homes).

Harrison, J. (LSA). December 8, 2000. Letter report to R.C. Metzler (Shea Homes) re: "Habitat analysis, Parkside Estates Tentative Tract No. 15419 (County Parcel), Orange County, California."

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Hewitt, R.S. (Natural Resources Conservation Service). November 20, 1998. Letter to J. Barnes (City of Huntington Beach) concurring with the Corps's designation of the wetlands on the agricultural parcel of the Shea property as "prior converted cropland."

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Holmgren, M.A. (UCSB). June 7, 2002. Memorandum to J. Dixon (CCC) regarding sensitivity of white-tailed kites to disturbance

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Homrighausen, A. (LSA). September 15, 2005. Letter report to J. Dixon (CCC) re: "Parkside Estates Project: HNB LCPA No. 1-05 and CDP Application No. 5-05-256, Technical Response to Staff Analysis Presented at Meeting of June 30, 2005."

Homrighausen, A. (LSA), T. Bomkamp (GLA), and M. Josselyn (WRA). 2007. Memorandum to S. Sarb (CCC) dated June 12, 007 regarding: "Historic 'EPA area' on Parkside Estates, Huntington Beach, Huntington Beach, Huntington Beach LCPA 1-06."

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Memoranda prepared by CCC Staff Ecologist in Conjunction with Subject Parkside Project:

Wetlands at Shea Homes Parkside, 7/27/06

Raptor Habitat at Parkside, 7/28/06

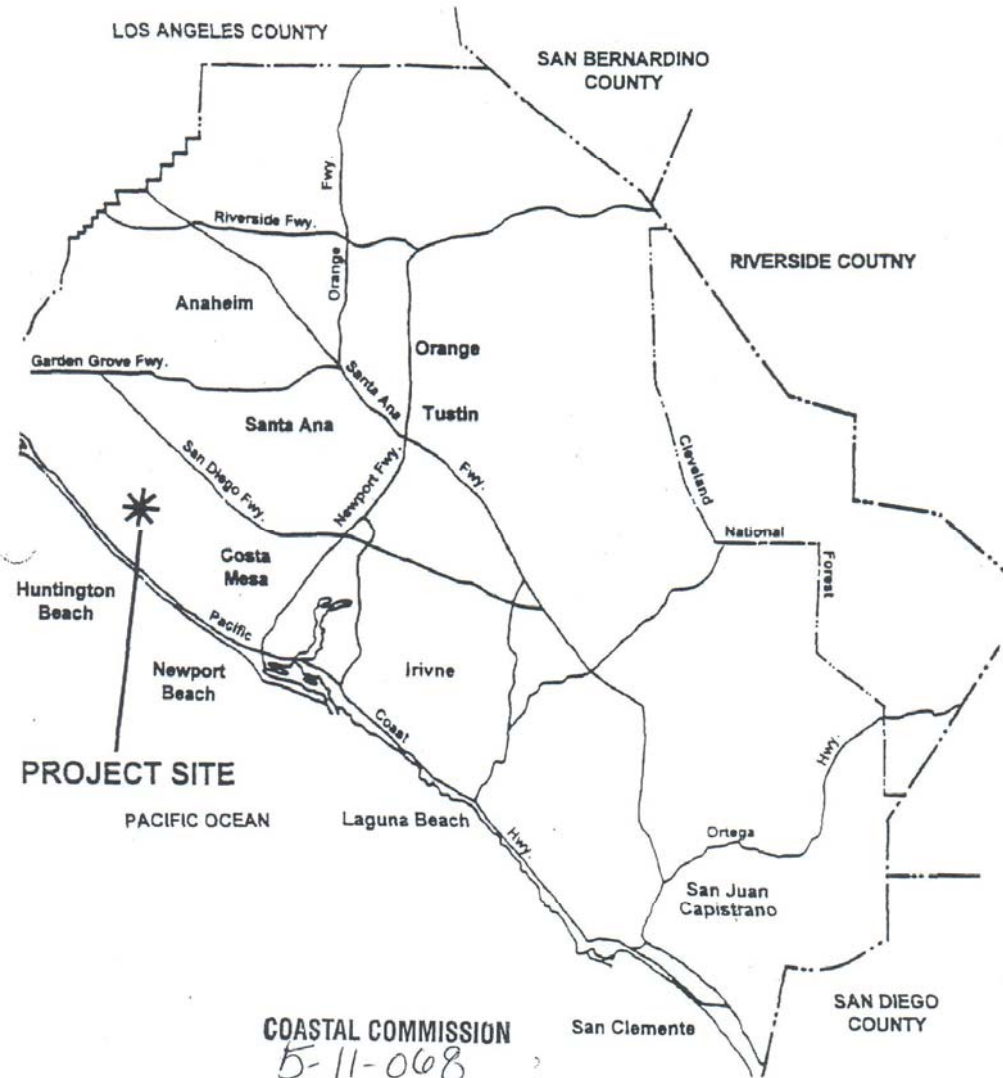
Natural Resources at the Parkside Property, 7/2/07

Wetland and Raptor Issues at Shea Parkside, 10/25/07

Shea Parkside, 10/14/09

Parkside Habitat Management & Landscape Plans, 2/11/10

Also reviewed: numerous aerial photos and rainfall data.

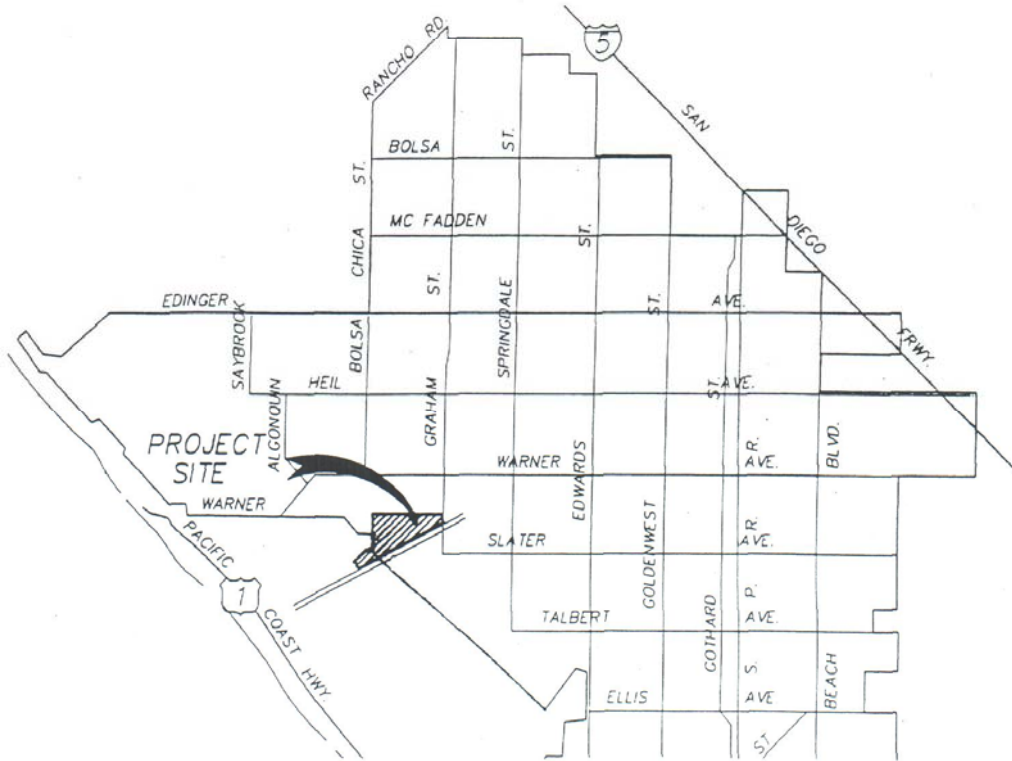


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No Scale

EDAW, Inc.
Source: EDAW, Inc.

VICINITY MAP



COASTAL COMMISSION

5-11-068

EXHIBIT # 2

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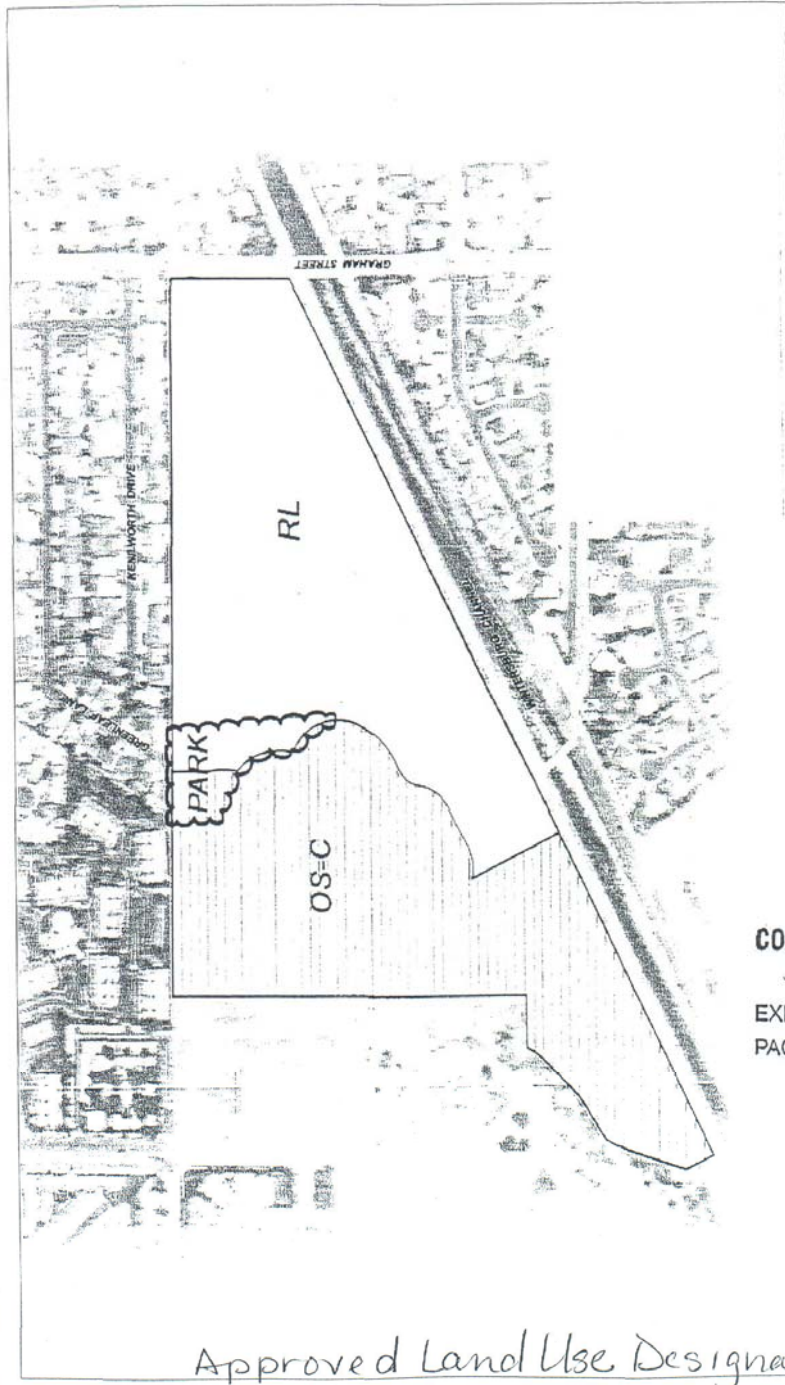
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EDAW, Inc.

LOCATION MAP

Source: Hunsaker & Associates Irvine, Inc.

133 132 131 130 129 128 127 126 125 124 123 122 121 120 119 118 117 116 115 114 113 112 111 110 109 108 107 106 105 104 103 102 101 100 99 98 97 96 95 94 93 92 91 90 89 88 87 86 85 84 83 82 81 80 79 78 77 76 75 74 73 72 71 70 69 68 67 66 65 64 63 62 61 60 59 58 57 56 55 54 53 52 51 50 49 48 47 46 45 44 43 42 41 40 39 38 37 36 35 34 33 32 31 30 29 28 27 26 25 24 23 22 21 20 19 18 17 16 15 14 13 12 11 10 9 8 7 6 5 4 3 2 1



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Approved Land Use Designations

NO SCALE
 SOURCE: Humaker & Associates, Inc.

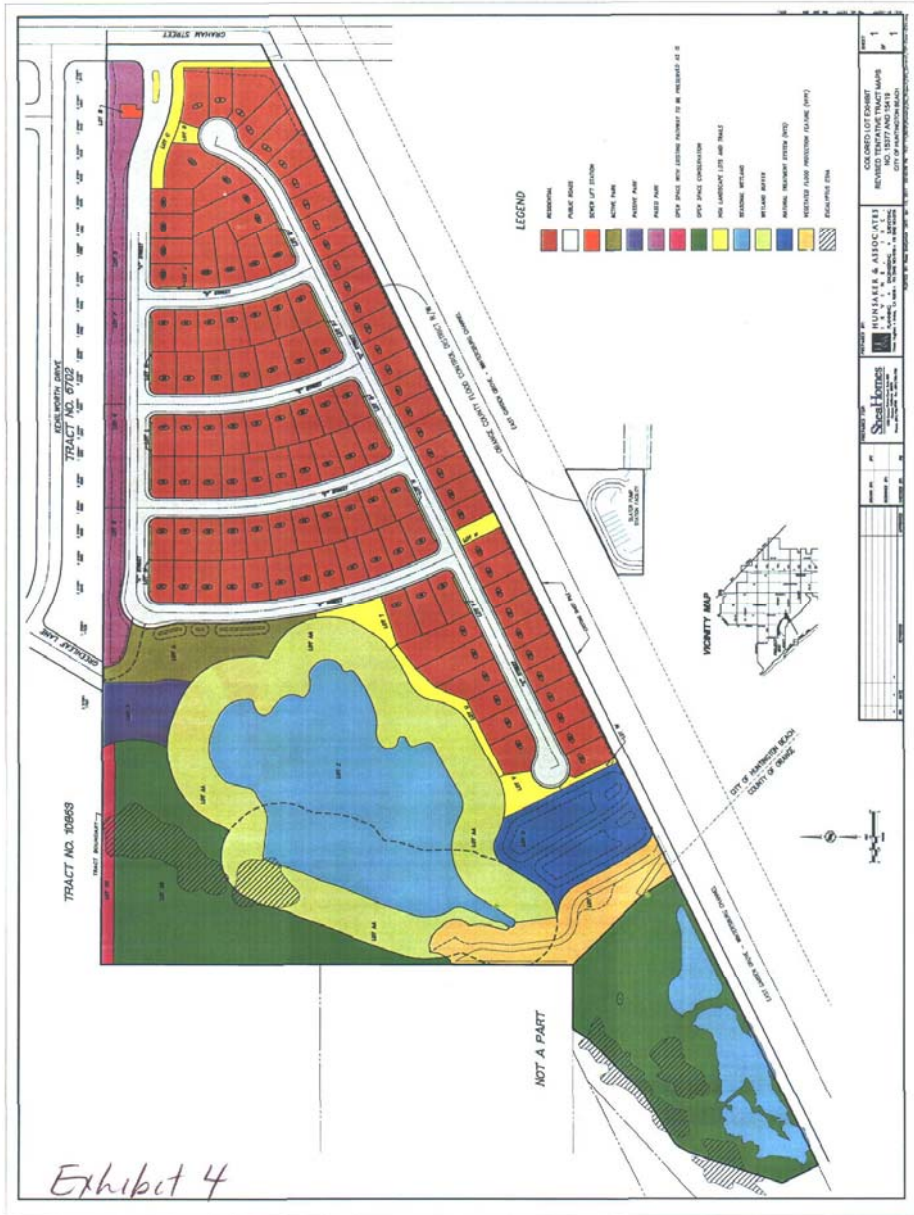
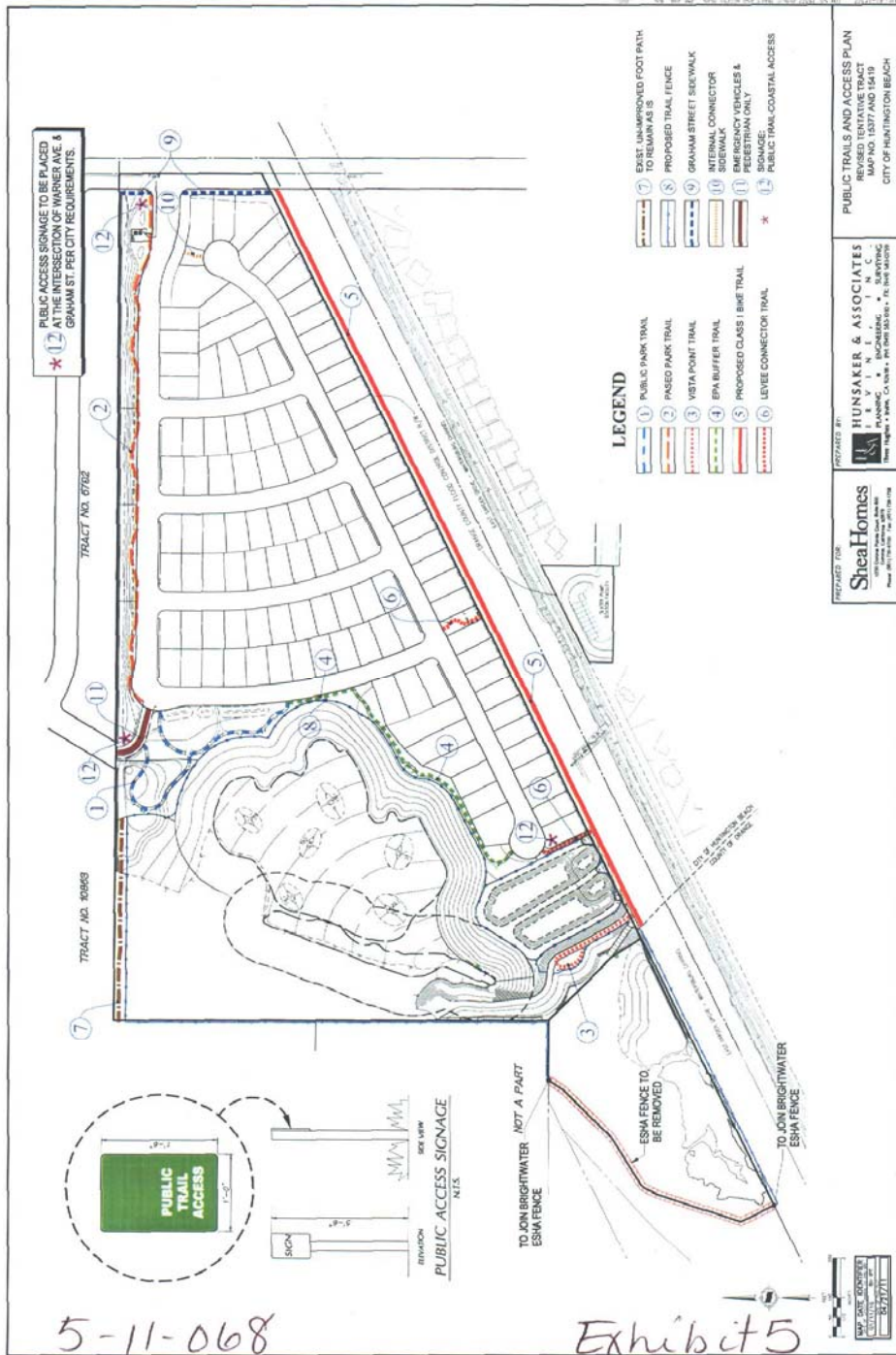


Exhibit 4
5-11-068



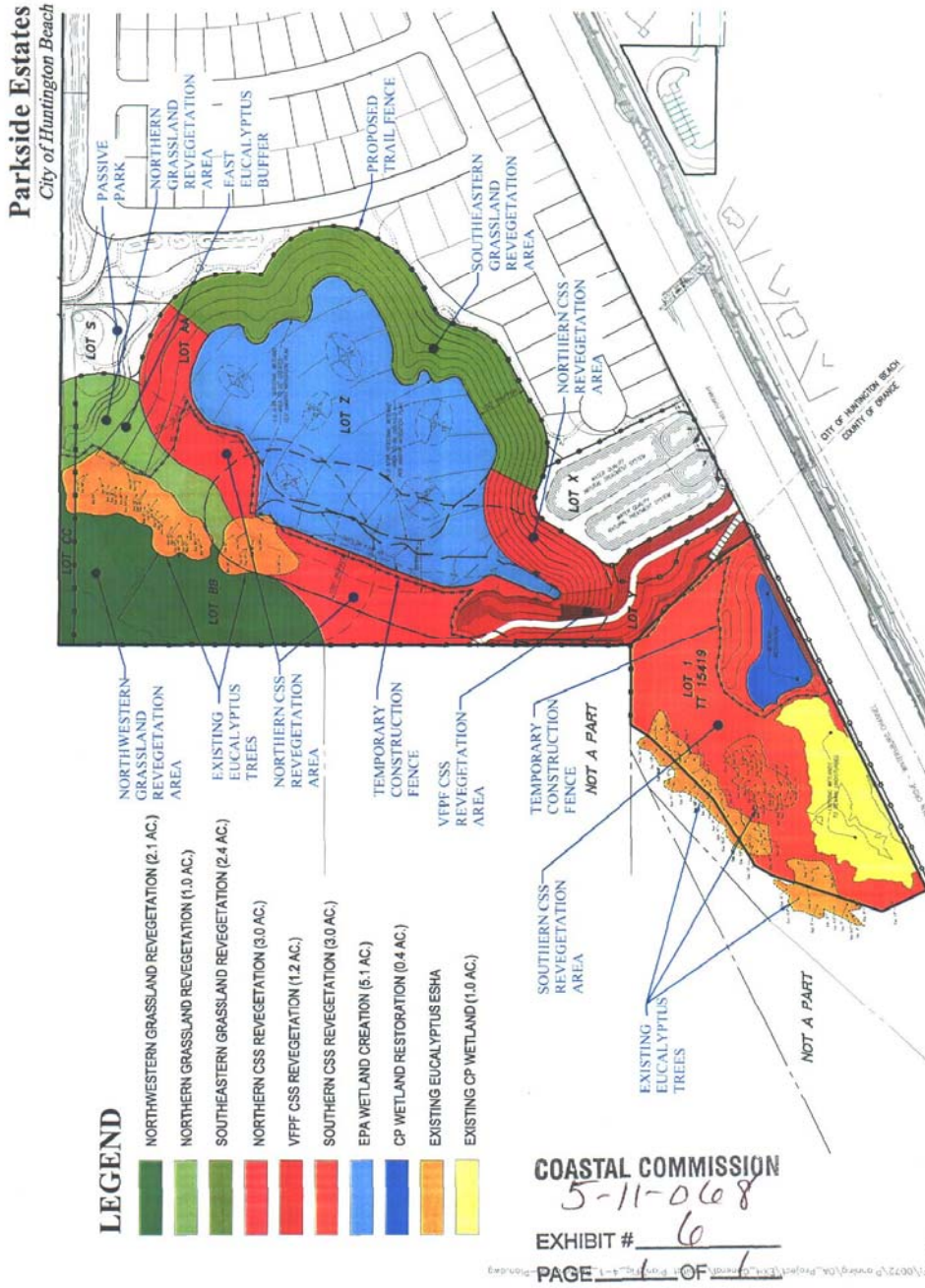
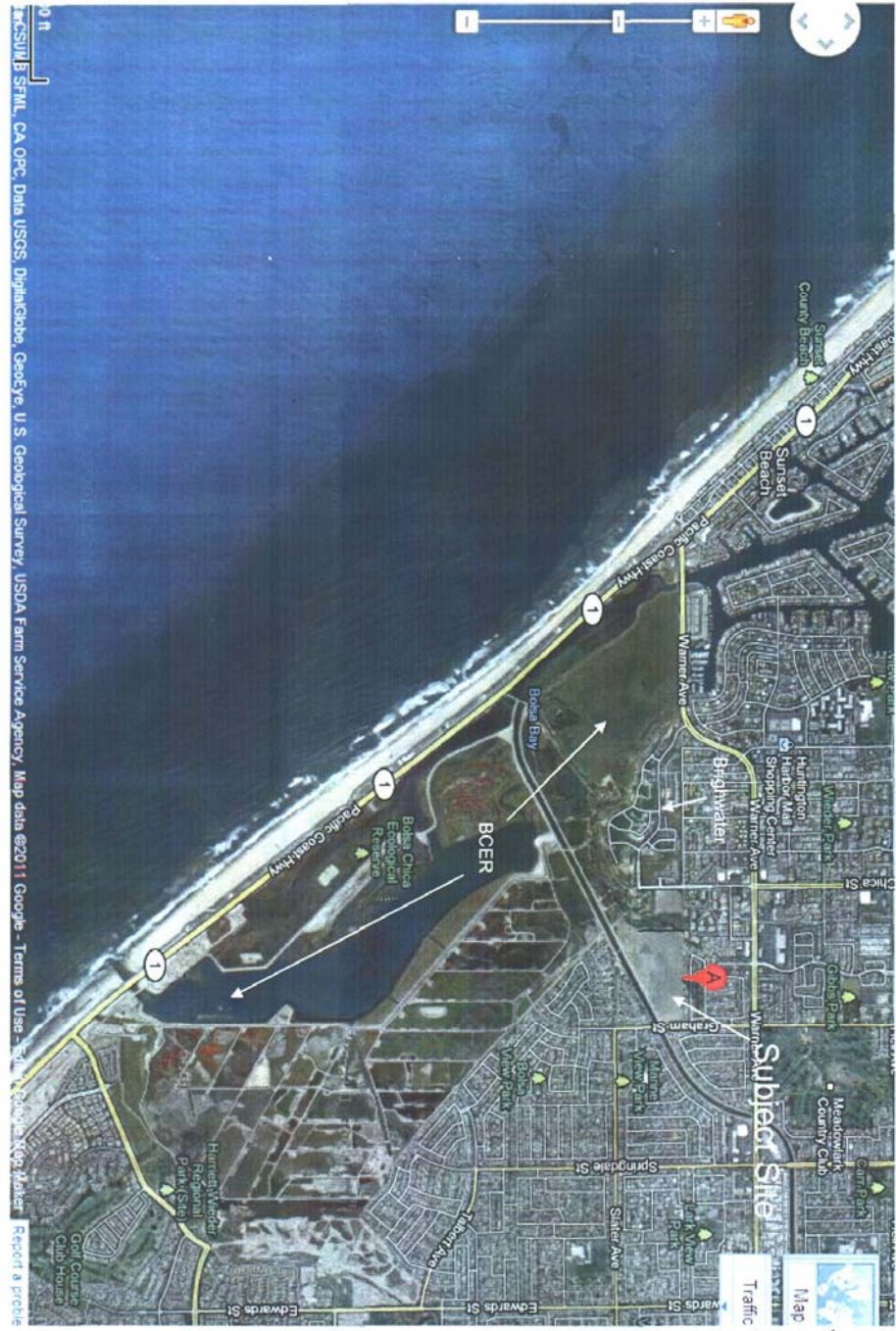
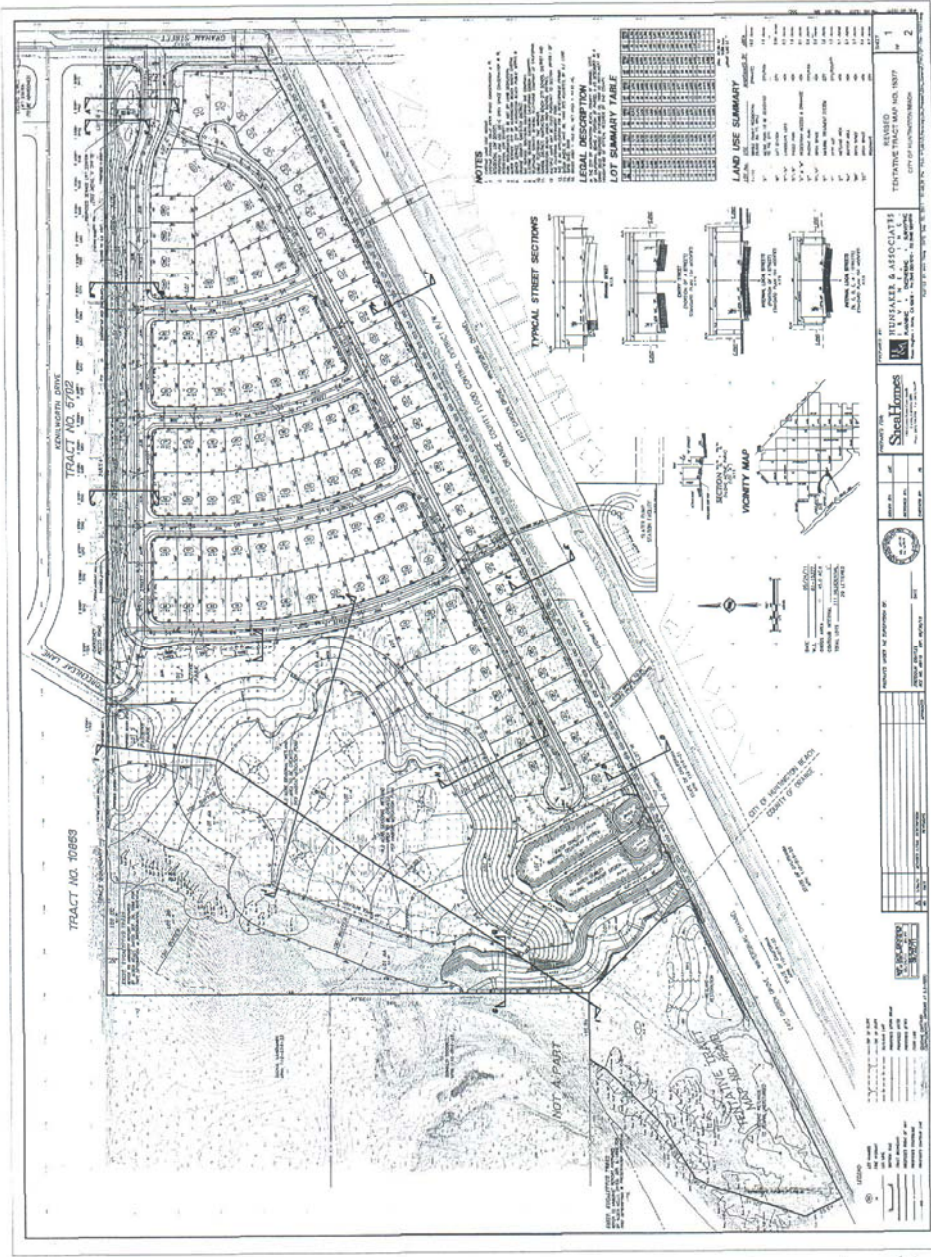


Figure 4-1
Restoration Plan



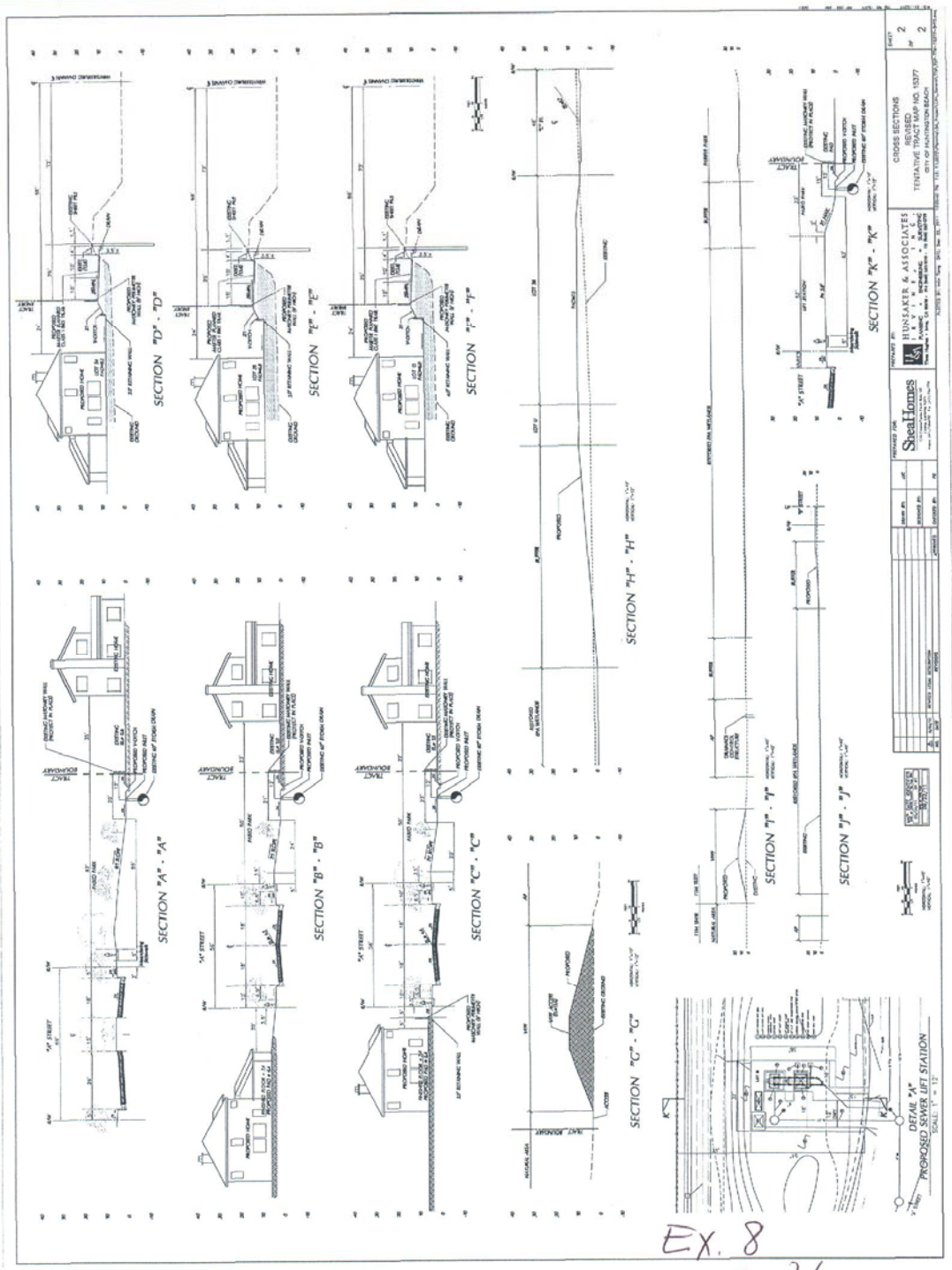
5-11-068

Exhibit 7



5-11-068

Exhibit 8
p. 1/2



Ex. 8
P. 2/2

SHEA HOMES 11111 111TH AVE, SE ALBUQUERQUE, NM 87123 (505) 261-1111 WWW.SHEAHOMES.COM		HUNSAKER & ASSOCIATES 1111 11TH AVE, SE ALBUQUERQUE, NM 87123 (505) 261-1111 WWW.HUNSAKER.COM		SHEA HOMES HUNSAKER & ASSOCIATES PREPARED FOR: SHEA HOMES PROJECT NO.: 5-11-068 SHEET NO.: 2 OF 2 DATE: 11/11/08
PROPOSED SEWER LIFT STATION SCALE: 1" = 1'-0"		CIVIL SECTIONS TENTATIVE TRACT MAP NO. 13377 CITY OF ALBUQUERQUE		

Parkside Estate
City of Huntington Beach



LEGAL DESCRIPTIONS

TT 15377
 In the City of Huntington Beach, County of Orange, State of California, being a portion of Parcel A as described in a grant deed recorded September 19, 1996 as instrument no 19960479182 of official records of said county.
 APN: 110-016-19 & 110-016-20

TT 15419

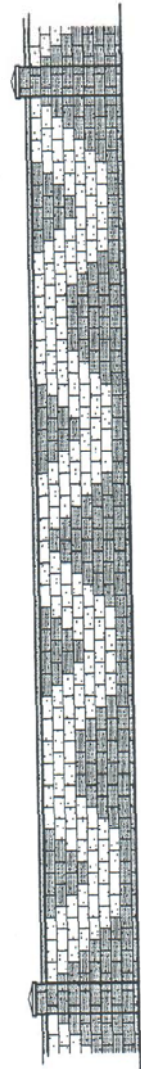
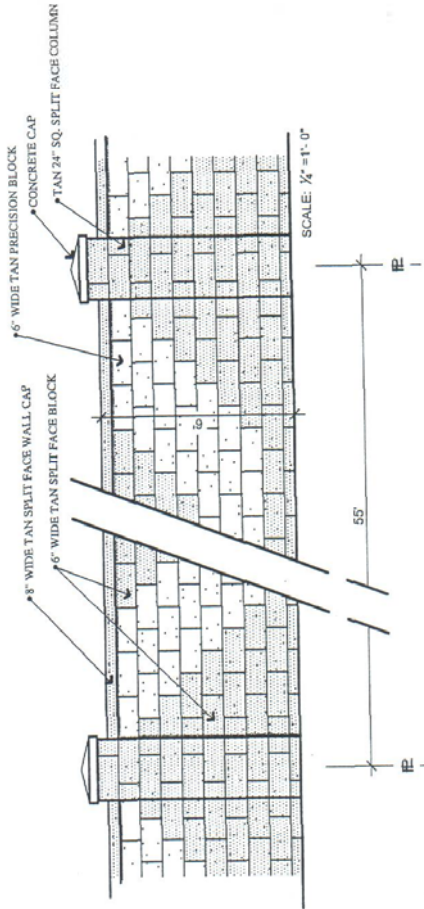
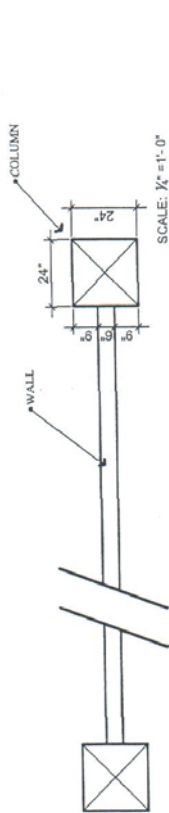
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EXISTING PARCEL CONFIGURATION

WALL @ WINTERSBURG
CHANNEL DETAIL SHEET

PARKSIDE ESTATES
SHEA HOMES
TRACT 15377 HUNTINGTON BEACH, CALIFORNIA
1229 CORONA POINT COURT, STE. 600
CORONA, CA 92719

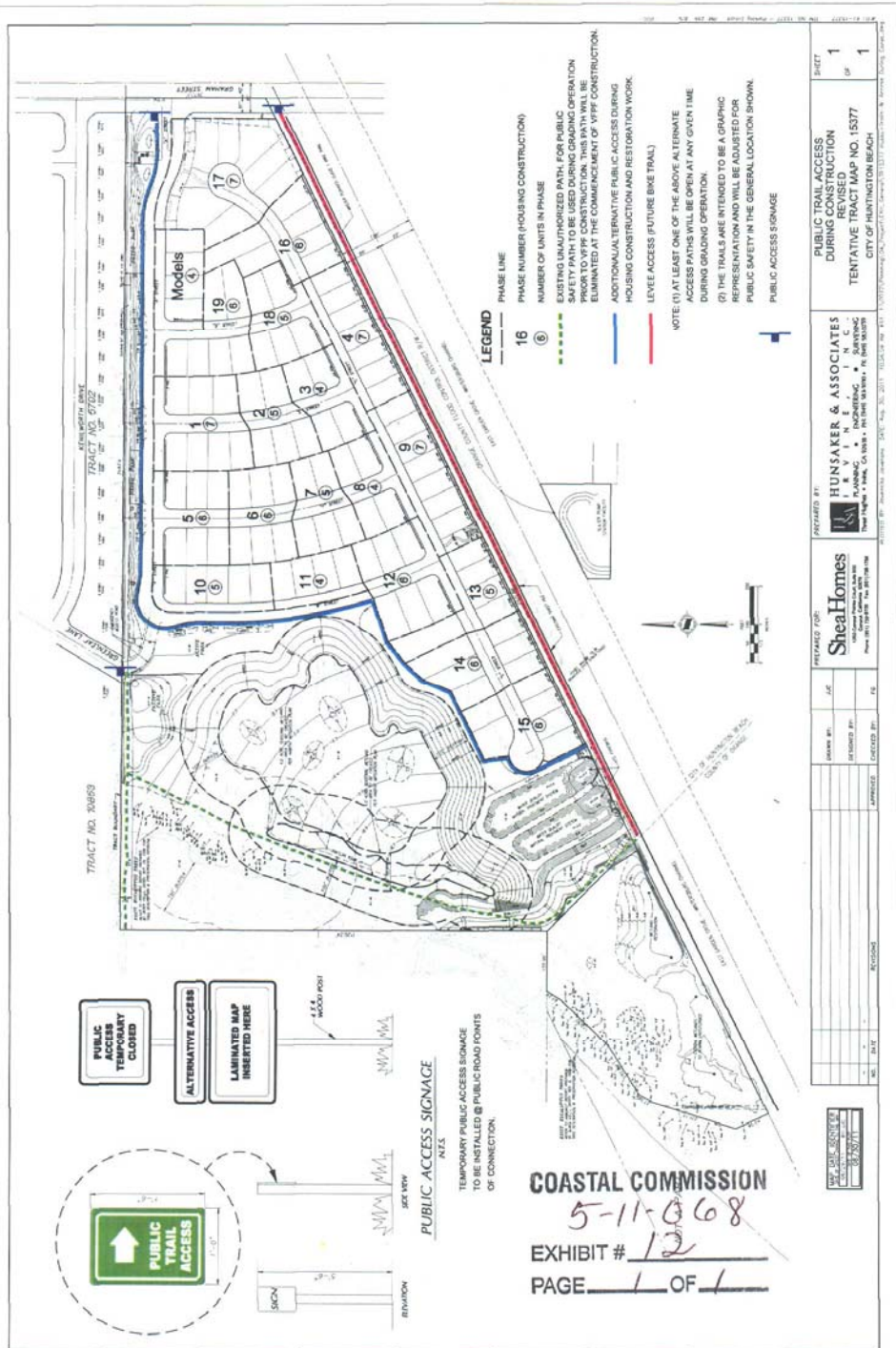
PRANK
RADMACHER ASSOCIATES, INC.
LANDSCAPE ARCHITECTS
1817 TRINITY DRIVE, SUITE 200
MILPITAS, CALIFORNIA 95035
PHONE (415) 951-1949 FAX (415) 951-1949
WWW.PRANKRADMACHER.COM



WALL ELEVATION @ WINTERSBURG CHANNEL BIKE TRAIL
SCALE: 1/8" = 1'-0"

COASTAL COMMISSION
5-11-068
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Proposed Privacy/Security Wall
Adjacent to Levee Trail



DATE	12/11/07	REVISION	
NO.	1	DATE	12/11/07
BY	JL	LOCATED BY	JL
CHECKED BY		DATE	
APPROVED BY		DATE	
PREPARED FOR: Shea Homes PREPARED BY: HUNSAKER & ASSOCIATES 1100 N. C. STREET, SUITE 100, HUNTSVILLE, AL 35894 PHONE: 256/833-8888 FAX: 256/833-8889 WWW.HUNSAKER.COM			
PUBLIC TRAIL ACCESS DURING CONSTRUCTION		SHEET 1	
TENTATIVE TRACT MAP NO. 15377		OF 1	
CITY OF HUNTINGTON BEACH			



City of Huntington Beach

2000 MAIN STREET CALIFORNIA 92648
DEPARTMENT OF PLANNING AND BUILDING

Phone 536-5271
Fax 374-1540

March 9, 2010

Meg Vaughn
South Coast Area Office
California Coastal Commission
200 Oceansgate, 10th Floor
Long Beach, CA 90802-4302

SUBJECT: Coastal Development Permit Application No. 5-09-182 (Parkside)

Dear Meg:

This letter is in response to your February 12, 2010 request of Shea Homes for more information to complete the above referenced application. Specifically, you requested evidence that the City of Huntington Beach would accept dedication of certain lots, including the NTS and parks. You also requested clarification as to whether the paseo park area, proposed lot CC area as well as any other areas proposed for public use would be dedicated to the City.

Pursuant to City-approved Conditions of Approval for Revised Tentative Tract Map Nos. 15377 and 15419, condition no. 4.h., the City requires that the public park, Lots A and S and the NTS, Lot X be dedicated in fee to the City. The condition states that Lot Y (VFPF) may be dedicated to the County of Orange. By requiring these dedications it is the City's intent to accept them.

The City also requires an easement 10 feet in width for public access purposes for the paseo park area: Lots B, O, P, Q and R, and trails/access points and paths: Lots C, D, N, T, U, V and W. In addition, the streets and the emergency access road from Greenleaf Lane to "A" Street shall be dedicated to the City and available for public use; however, the emergency access road would be for pedestrians only.

The City did not require, nor is it the City's intent to accept, dedication in fee of the paseo park area or Lot CC.

Please contact me at 714-536-5550 should you have any questions regarding the above.

Sincerely,

Mary Beth Broeren
Planning Manager

cc: Ron Metzler, Shea Homes

COASTAL COMMISSION

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**CITY OF HUNTINGTON BEACH
INTER-DEPARTMENT COMMUNICATION**

FIRE PREVENTION

To: Scott Hess, Director of Planning
From: Bill Reardon, Fire Marshal / Division Chief 
Date: July 19, 2011

SUBJECT: PARKSIDE FUEL MODIFICATION PLAN

The Huntington Beach Fire Department has reviewed the revised site plans and landscape plans included as part of Coastal Development Permit Application No. 5-09-182 and submitted to the Coastal Commission on September 21, 2009.

As previously addressed in a letter dated November 19, 2003, the Huntington Beach Fire Department still has the responsibility of emergency response into the Parkside development. The letter also identified the area adjacent to the Parkside area to be an environmentally sensitive habitat, as well as a parks and recreation area, which has since been reduced in size.

The Huntington Beach Fire Department continues to require a 100 foot low vegetation buffer along the common border with the homes. This would allow any vegetation located within that 100 foot zone to not present future problems for the Parkside development as it relates to any subdivision.

The 100 foot low vegetation buffer would be measured from the rear property line(s) of the homes backing to the Open Space Conservation area. It includes the irrigated landscaped trail area, as proposed with no low vegetation requirement because it is permanently irrigated, and a portion of the buffer area around the wetland that would be planted with low growing plants, per the aforementioned landscape plans.

The Huntington Beach Fire Department concurs with LSA & Associates' Conceptual Habitat Management Plan dated July 2010. Based on a review of this plan, it is not expected that fuel modification vegetation clearance would be required with the Open Space Conservation area.

BR/sm

COASTAL COMMISSION
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ORANGE COUNTY
OC Community Resources
Our Community. Our Commitment.

FEB - 5 2010

STEVE FRANKS
DIRECTOR
OC COMMUNITY RESOURCES

February 5, 2010

RYAN DRABEK
INTERIM DIRECTOR
OC ANIMAL CARE

Shea Homes
1250 Corona Pointe Court, Suite 600
Corona, CA 92879
Attn: Mr. Ron Metzler

KAREN ROPER
DIRECTOR
OC COMMUNITY SERVICES

RE: Parkside Estates
Coastal Development Permit Application No. 5-09-182
17301 Graham Street, Huntington Beach

MARK DENNY
DIRECTOR
OC PARKS

Dear Mr. Metzler,

HELEN FRIED
COUNTY LIBRARIAN
OC PUBLIC LIBRARIES

This letter follows OC Parks' December 17, 2009 meeting with you, representatives from the City of Huntington Beach, Orange County Flood Control, and Hunsaker and Associates, wherein the proposed Parkside Estates residential development and your current process of applying for a Coastal Development Permit from the California Coastal Commission (CCC) was discussed. During the meeting, you provided a written statement from Ms. Meg Vaughn of CCC, requesting "written approval from OCHBP for the proposed public trail on the flood control levee."

OC Parks has replaced the former Harbors, Beaches and Parks (OCHBP), and now has authority over public trails referenced in the CCC request. Accordingly, OC Parks has confirmed that a regional Class I bikeway ("public trail") along the East Garden Grove Wintersburg Channel (C05), as stated in prior letters issued by OCHBP on this subject, remains on County plans. Additionally, we have reviewed the development plans for the Parkside Estates project and hereby approve, for processing purposes only, the proposed Class I bikeway along the project's frontage, and along the north levee of the C05 Channel.

If you need additional information, please contact Leslie Ray at (714) 973-6863.

Sincerely,


Mark Denny
Director, OC Parks

cc: Leslie Ray



OC Parks
13042 OLD MYFORD ROAD
IRVINE, CA 92602
PHONE: 866.OC PARKS
FAX: 714-667-6511

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Jess A. Carbajal, Director
300 N. Flower Street
Santa Ana, CA
P.O. Box 4048
Santa Ana, CA 92702-4048
Telephone: (714) 834-2300
Fax: (714) 834-5188

February 5, 2010

RECEIVED
South Coast Region

FEB - 9 2010

CALIFORNIA
COASTAL COMMISSION

Ms. Megan Vaughn, Staff Analyst
California Coastal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

SUBJECT: CCC CDP No. 5-09-182, Shea Homes Parkside Estates Development

Dear Ms. Vaughn:

The Orange County Flood Control District (OCFCD) as administered by the County of Orange, OC Public Works (OCPW), met with representatives of Shea Homes on December 17, 2009. During the meeting, Shea Homes stated that the California Coastal Commission (CCC), Coastal Development Permit (CDP) No. 5-09-182 included certain conditions that the developer secure approvals from OCFCD. Pages 7 and 8 of the subject CDP stated the following:

Orange County Flood Control District (OCFCD) – Please submit written approval from the OCFCD for all work proposed within the flood control channel and flood control levees and any areas owned and/or operated by the OCFCD. This review must also include comments on the proposed public trail proposed on the flood control levee. Written evidence of review and approval of the VFPF from the OCFCD must be submitted.

With regard to the above CDP conditions of approval, OC Public Works staff have reviewed the plans for the proposed VFPF, Class I Bike Trail, East Garden Grove – Wintersburg Channel (OCFCD Facility No. C05) levee, and Parkside Estates storm drain under-crossing of C05 and have approved the plans "in concept," and the developer (Shea Homes) has agreed that OCFCD reserves the right to request and/or require additional changes and/or revisions to the plans to meet OCFCD standards, criteria, policies, customs, and practices. OC Public Works staff have also stamped a copy of the plans as approved "in concept" for submittal to Coastal Commission staff.

In addition, OCFCD conditionally approves the Class I Bike Trail "in concept" given that OC Parks or the City of Huntington Beach accepts all liability for public access and use

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M. Vaughn – Page 2

of OCFCD's levee as a Class I Bike Trail. It is our understanding that OC Parks will provide its independent approval of the bike trail by separate correspondence.

If you or your staff have any questions or require additional information, please call Phil Jones, Manager, OCPW – Flood Control Design at (714) 834-2599 or you may e-mail Mr. Jones at Phil.Jones@ocpw.ocgov.com.

Sincerely,



Nadeem Majaj, P.E.
Assistant Director, OC Engineering

Cc: Kevin Onuma
Phil Jones
Ali Fayad
Nardy Khan
Leslie Ray, OC Parks
Ron Metzler, Shea Homes

S:\FCD&PM\Flood Control Design\Phil Jones, Manager\Share\Projects-back up\East Garden Grove Wintersberg\D-S Graham to Warner Reach\Tidegates to Warner\Shea Homes\Ltr NM to CCC - Shea Homes Approval in Concept - Feb2010.doc

COASTAL COMMISSION
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PAGE 2 OF 2



Jess A. Carbajal, Director
300 N. Flower Street
Santa Ana, CA
P.O. Box 4048
Santa Ana, CA 92702-4048
Telephone: (714) 834-2300
Fax: (714) 834-5188

March 4, 2010

Ms. Megan Vaughn, Staff Analyst
California Coastal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

SUBJECT: CCC CDP No. 5-09-182, Shea Homes Parkside Estates Development

Dear Ms. Vaughn:

The Orange County Flood Control District (OCFCD) as administered by the County of Orange, OC Public Works (OCPW), has received a correspondence from Shea Homes indicating that Commission staff requires assurances that OCFCD will accept the Vegetated Flood Protection Feature (VFPP) levee right of way dedication by Shea Homes. OC Public Works staff has previously indicated to Shea Homes that if the VFPP levee is constructed to conform to OCFCD standards, staff will forward all right of way documentation to our Board for execution and approval of the dedication.

If you or your staff have any questions or require additional information, please call Phil Jones, Manager, OCPW – Flood Control Design at (714) 834-2599 or you may e-mail Mr. Jones at Phil.Jones@ocpw.ocgov.com.

Sincerely,

Nadeem Majaj, P.E.
Assistant Director, OC Engineering

Cc: Kevin Onuma
Phil Jones
Ali Fayad
Nardy Khan
Leslie Ray, OC Parks
Ron Metzler, Shea Homes

COASTAL COMMISSION

5-11-068

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LSA ASSOCIATES, INC.
20 EXECUTIVE PARK, SUITE 200
IRVINE, CALIFORNIA 92614

949.552.0646 TEL
949.552.8976 FAX

BERKELEY
CARLSBAD
FORT COLLINS

FRESNO
PALM SPRINGS
POINT RICHMOND

RIVERSIDE
ROCKLIN
SAW LUIS OBISPO
SOUTH SAN FRANCISCO

April 29, 2010

Ron Metzler
c/o Shea Homes
1250 Corona Pointe Court, Suite 600
Corona, CA 92879

Subject: Parkside Estates Habitat Management & Landscape Plan Planting Palette Review

Dear Mr. Metzler:

At the request of the California Coastal Commission, LSA Associates, Inc. (LSA) reviewed the planting palettes in the Parkside Estates landscape plans (designed by Frank Radmacher Associates, November 18, 2008; latest revision, January 7, 2010) for the various open space amenities associated with the residential development (e.g., passive park). With the recommended changes to the plant palette discussed below, LSA certifies that the revised landscape plans has no nonnative species in the park areas that could invade the adjacent natural areas.

METHODS

On March 8, 2010, Leo Simone, LSA senior biologist and landscape architect (unlicensed – California Polytechnic State University, Bachelor of Landscape Architecture), reviewed the planting palettes in the above-referenced Parkside Estates landscape plans. All nonnative plant material included in the proposed planting palettes was analyzed for the invasive potential to spread into intended native habitats.

The following resources were used in determining whether exotic plant material included in the plant palette had potential to spread into nearby native habitats.

- United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) List of Exotic Invasive Weeds.
- California Invasive Plant Council (Cal-IPC) Invasive Plant Inventory.
- Invasive Plants of California Wildlands
- Garden Guides: List of Invasive Plants in California
- Sunset Western Garden Book
- LSA experience in habitat restoration and open space assessment

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The Parkside Estates landscape plans planting palettes were peer-reviewed by Art Homrighausen, LSA Principal Biologist.

04/29/10 01:35:0330\Non-invasive plant palette.docx

PLANNING | ENVIRONMENTAL SCIENCES | DESIGN

LSA ASSOCIATES, INC.

DISCUSSION

LSA's review of the planting palettes in the above-referenced original Parkside Estates landscape plans found that the following plants have a potential to be invasive.

Lot A "Active Park" Plant Palette

The plants listed below have the potential to be invasive if not kept within a confined space (i.e., concrete mow strip or other barrier).

- Agapanthus* "Queen Ann"
 - Trachelospermum jasmioides*
 - Hemerocallis hybrida*
- Hybrid Bermuda; this turf grass can be invasive, especially in wetland areas and therefore should not be used.

Naturalized Meadow Grass

The following grasses can be invasive and should not be used.

- Gaura lindheimeri* 'Pink Blush'
- Milinus nervigulumis*
- Miscanthus sinensis* 'Gracillimus'
- Stipa tenuissima*

The following list of replacement grasses are noninvasive and will perform well as naturalized meadow grass.

- Bothriochloa barbinodis*
- Sporobolus airoides*
- Panicum virgatum*

The recommended changes to the planting palette listed above were incorporated into the most recently revised Parkside Estates landscape plans. LSA certifies that as revised, the current landscape plans have no nonnative species in the park areas that could invade the adjacent natural areas.

Sincerely,

LSA ASSOCIATES, INC.



Leo Simone
Senior Biologist



Art Homrighausen
Principal Biologist

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5-11-068 (Shea Homes/Parkside)

COASTAL COMMISSION

5-11-068

EXHIBIT # 19

PAGE 1 OF 3

Exhibit

Lot / Housing Information Matrix

Requested information: Please provide a chart/matrix for the proposed single family residences showing the number of residences, the square footage of each, the lot size, height of structure and other relevant individual information.

lot	lot size	projected lot elevation	finish floor elevation	current plotted plan	current plotted sf	maximum sf (1)	structure height	projected overall elevation height	maximum overall elevation height (2)
1	8,332	7.5	8.5	4	3,704	3,704	30.7	39.2	40.0
2	6,368	7.2	8.2	2	3,159	3,704	31.0	39.2	39.7
3	10,985	7.4	8.4	3	3,376	3,704	31.5	39.9	39.9
4	8,411	7.3	8.3	2	3,159	3,704	31.0	39.3	39.8
5	7,355	6.4	7.4	1	3,109	3,704	28.2	35.6	38.9
6	6,982	6.2	7.2	3	3,376	3,704	31.5	38.7	38.7
7	6,109	6.0	7.0	2	3,159	3,704	31.0	38.0	38.5
8	5,720	5.8	6.8	4	3,704	3,704	30.7	37.5	38.3
9	5,720	6.0	7.0	1	3,109	3,704	28.2	35.2	38.5
10	5,720	6.4	7.4	3	3,376	3,704	31.5	38.9	38.9
11	5,720	6.6	7.6	2	3,159	3,704	31.0	38.6	39.1
12	5,720	6.1	7.1	4	3,704	3,704	30.7	37.8	38.6
13	5,720	6.0	7.0	3	3,376	3,704	31.5	38.5	38.5
14	5,720	6.1	7.1	1	3,109	3,704	28.2	35.3	38.6
15	5,720	6.5	7.5	2	3,159	3,704	31.0	38.5	39.0
16	5,720	6.2	7.2	4	3,704	3,704	30.7	37.9	38.7
17	5,720	6.0	7.0	3	3,376	3,704	31.5	38.5	38.5
18	5,720	5.9	6.9	4	3,704	3,704	30.7	37.6	38.4
19	5,720	6.2	7.2	1	3,109	3,704	28.2	35.4	38.7
20	5,720	6.6	7.6	2	3,159	3,704	31.0	38.6	39.1
21	5,720	6.2	7.2	3	3,376	3,704	31.5	38.7	38.7
22	5,720	5.8	6.8	4	3,704	3,704	30.7	37.5	38.3
23	5,720	6.1	7.1	2	3,159	3,704	31.0	38.1	38.6
24	5,720	6.2	7.2	3	3,376	3,704	31.5	38.7	38.7
25	5,720	6.8	7.8	4	3,704	3,704	30.7	38.5	39.3
26	5,720	6.1	7.1	2	3,159	3,704	31.0	38.1	38.6
27	5,720	6.2	7.2	3	3,376	3,704	31.5	38.7	38.7
28	5,720	6.4	7.4	4	3,704	3,704	30.7	38.1	38.9
29	5,720	6.7	7.7	1	3,109	3,704	28.2	35.9	39.2
30	5,720	7.0	8.0	3	3,376	3,704	31.5	39.5	39.5
31	5,720	7.3	8.3	4	3,704	3,704	30.7	39.0	39.8
32	5,720	7.8	8.8	2	3,159	3,704	31.0	39.8	40.3
33	5,720	7.8	8.8	4	3,704	3,704	30.7	39.5	40.3
34	6,255	8.2	9.2	3	3,376	3,704	31.5	40.7	40.7
35	8,675	8.0	9.0	2	3,159	3,704	31.0	40.0	40.5
36	6,180	7.5	8.5	3	3,376	3,704	31.5	40.0	40.0
37	6,180	7.1	8.1	1	3,109	3,704	28.2	36.3	39.6
38	7,753	6.9	7.9	4	3,704	3,704	30.7	38.6	39.4
39	10,018	7.2	8.2	3	3,376	3,704	31.5	39.7	39.7
40	11,742	7.1	8.1	4	3,704	3,704	30.7	38.8	39.6
41	7,415	6.7	7.7	3	3,376	3,704	31.5	39.2	39.2

5-11-068 (Shea Homes/Parkside)

lot	lot size	projected lot elevation	finish floor elevation	current plotted plan	current plotted sf	maximum sf (1)	structure height	projected overall elevation height	maximum overall elevation height (2)
42	7,415	6.9	7.9	4	3,704	3,704	30.7	38.6	39.4
43	6,930	6.9	7.9	1	3,109	3,704	28.2	36.1	39.4
44	6,061	6.7	7.7	3	3,376	3,704	31.5	39.2	39.2
45	6,001	6.7	7.7	2	3,159	3,704	31.0	38.7	39.2
46	5,990	6.2	7.2	4	3,704	3,704	30.7	37.9	38.7
47	5,973	5.9	6.9	1	3,109	3,704	28.2	35.1	38.4
48	5,949	6.2	7.2	2	3,159	3,704	31.0	38.2	38.7
49	5,917	6.1	7.1	4	3,704	3,704	30.7	37.8	38.6
50	5,879	6.0	7.0	3	3,376	3,704	31.5	38.5	38.5
51	5,834	5.8	6.8	4	3,704	3,704	30.7	37.5	38.3
52	5,781	6.3	7.3	2	3,159	3,704	31.0	38.3	38.8
53	5,647	5.9	6.9	1	3,109	3,704	28.2	35.1	38.4
54	5,500	5.8	6.8	4	3,704	3,704	30.7	37.5	38.3
55	5,655	6.0	7.0	3	3,376	3,704	31.5	38.5	38.5
56	5,656	6.1	7.1	1	3,109	3,704	28.2	35.3	38.6
57	5,500	6.0	7.0	4	3,704	3,704	30.7	37.7	38.5
58	5,784	6.4	7.4	2	3,159	3,704	31.0	38.4	38.9
59	5,823	6.4	7.4	3	3,376	3,704	31.5	38.9	38.9
60	5,823	6.1	7.1	4	3,704	3,704	30.7	37.8	38.6
61	5,823	6.0	7.0	1	3,109	3,704	28.2	35.2	38.5
62	5,823	6.3	7.3	3	3,376	3,704	31.5	38.8	38.8
63	5,823	6.5	7.5	2	3,159	3,704	31.0	38.5	39.0
64	5,823	6.1	7.1	4	3,704	3,704	30.7	37.8	38.6
65	5,823	6.1	7.1	3	3,376	3,704	31.5	38.6	38.6
66	5,910	6.5	7.5	2	3,159	3,704	31.0	38.5	39.0
67	6,109	6.3	7.3	1	3,109	3,704	28.2	35.5	38.8
68	5,947	6.1	7.1	4	3,704	3,704	30.7	37.8	38.6
69	5,931	6.5	7.5	2	3,159	3,704	31.0	38.5	39.0
70	5,906	6.3	7.3	4	3,704	3,704	30.7	38.0	38.8
71	5,870	6.1	7.1	1	3,109	3,704	28.2	35.3	38.6
72	5,824	6.1	7.1	4	3,704	3,704	30.7	37.8	38.6
73	5,769	6.5	7.5	2	3,159	3,704	31.0	38.5	39.0
74	5,619	6.1	7.1	4	3,704	3,704	30.7	37.8	38.6
75	5,500	6.1	7.1	3	3,376	3,704	31.5	38.6	38.6
76	5,655	6.4	7.4	2	3,159	3,704	31.0	38.4	38.9
77	5,656	6.1	7.1	1	3,109	3,704	28.2	35.3	38.6
78	5,500	6.2	7.2	2	3,159	3,704	31.0	38.2	38.7
79	5,864	6.0	7.0	4	3,704	3,704	30.7	37.7	38.5
80	5,799	6.3	7.3	3	3,376	3,704	31.5	38.8	38.8
81	5,799	6.4	7.4	2	3,159	3,704	31.0	38.4	38.9
82	5,799	6.0	7.0	1	3,109	3,704	28.2	35.2	38.5
83	5,799	6.2	7.2	4	3,704	3,704	30.7	37.9	38.7
84	5,799	6.8	7.8	2	3,159	3,704	31.0	38.8	39.3
85	5,863	6.8	7.8	3	3,376	3,704	31.5	39.3	39.3
86	6,494	6.8	7.8	1	3,109	3,704	28.2	36.0	39.3
87	6,860	6.5	7.5	4	3,704	3,704	30.7	38.2	39.0
88	6,820	6.3	7.3	3	3,376	3,704	31.5	38.8	38.8
89	6,755	6.2	7.2	4	3,704	3,704	30.7	37.9	38.7
90	6,667	6.4	7.4	2	3,159	3,704	31.0	38.4	38.9

5-11-068

Exhibit 19 page 2/3

5-11-068 (Shea Homes/Parkside)

lot	lot size	projected lot elevation	finish floor elevation	current plotted plan	current plotted sf	maximum sf (1)	structure height	projected overall elevation height	maximum overall elevation height (2)
91	6,360	6.0	7.0	4	3,704	3,704	28.2	35.2	38.5
92	6,115	6.2	7.2	3	3,376	3,704	31.5	38.7	38.7
93	5,656	6.1	7.1	1	3,109	3,704	28.2	35.3	38.6
94	5,602	6.2	7.2	2	3,159	3,704	31.0	38.2	38.7
95	5,756	6.1	7.1	3	3,376	3,704	31.5	38.6	38.6
96	5,756	6.3	7.3	4	3,704	3,704	30.7	38.0	38.8
97	5,756	6.8	7.8	2	3,159	3,704	31.0	38.8	39.3
98	5,756	6.8	7.8	4	3,704	3,704	30.7	38.5	39.3
99	5,866	6.9	7.9	3	3,376	3,704	31.5	39.4	39.4
100	6,620	7.0	8.0	1	3,109	3,704	28.2	36.2	39.5
101	6,017	7.0	8.0	3	3,376	3,704	31.5	39.5	39.5
102	7,901	6.9	7.9	2	3,159	3,704	31.0	38.9	39.4
103	7,461	6.5	7.5	3	3,376	3,704	31.5	39.0	39.0
104	5,766	6.4	7.4	3	3,376	3,704	31.5	38.9	38.9
105	6,120	6.1	7.1	4	3,704	3,704	30.7	37.8	38.6
106	6,120	6.2	7.2	2	3,159	3,704	31.0	38.2	38.7
107	6,120	6.1	7.1	1	3,109	3,704	28.2	35.3	38.6
108	5,981	6.0	7.0	3	3,376	3,704	31.5	38.5	38.5
109	9,892	6.6	7.6	4	3,704	3,704	30.7	38.3	39.1
110	8,271	6.6	7.6	3	3,376	3,704	31.5	39.1	39.1
111	11,441	7.2	8.2	4	3,704	3,704	30.7	38.9	39.7

(1) plotting may be altered due to market response. This represents the maximum square footage on the lot.
 (2) plotting may be altered due to market response. This represents the maximum height on the lot.

5-11-068 Exhibit 19 page 3/3

RECEIVED
South Coast Region

OCT 10 2011

CALIFORNIA
COASTAL COMMISSION

U.S. Department of Homeland Security
1111 Broadway, Suite 1200
Oakland, CA 94607-4052



FEMA

October 6, 2011

California Coastal Commission
South Coast District Office
200 OceanGate, 10th Floor
Long Beach, CA 90802-4416

Subject: Conditional Letter of Map Revision (CLOMR) 01-09-0393R validity

To whom it may concern:

If a newly published map (postCLOMR) includes no hydraulic, hydrologic, or topographic changes to the area subject to the CLOMR, then the pre (new map) CLOMR remains valid. If there are changes, then the CLOMR would have to be modified and resubmitted.

Specifically, the CLOMR in question (CLOMR 01-09-0393R) is still valid.

If you have questions, please contact Bob Durrin at 510-627-7057 or by EMAIL at Robert.durrin@dhs.gov.

Sincerely,

Gregor Blackburn
Chief, Floodplain Management & Insurance Branch
Mitigation Division

CC: Andrew Gonzales, Associate Planner
The City of Huntington Beach Department of Planning and Building
2000 Main Street
Huntington Beach, CA 92648

COASTAL COMMISSION
5-11-068
EXHIBIT # 20
PAGE 1 OF 1

HAI HUSHMAND ASSOCIATES, INCORPORATED
Geotechnical, Earthquake and Environmental Engineers

California Coastal Commission
200 OceanGate, 10th Floor
Long Beach, CA 90802-4416

October 3, 2011

Attention: Ms. Mary K. Shallenberger, Chair

**Subject: Agenda Item TH-9f, October 6, 2011
Application No. 5-11-68
(Shea Homes, Huntington Beach)**

Dear Chair Shallenberger and members of the Commission,

Hushmand and Associates, Inc. (HAI) has been requested to review item three that is contained within a letter submitted by the Bolsa Chica Land Trust (BCLT) dated September 29, 2011. Specifically we were asked to review the statements that were made based on our report dated May 20, 2010 named "Geotechnical Investigation East Garden Grove - Wintersburg Channel (CO5) Levee Soil Mix Project Groundwater Impact Evaluation Station 37+00 to Station 102+00 Huntington Beach, Orange County, California" (report), which was attached to the BCLT letter.

We have reviewed the BCLT assertions and find them in conflict with the intent of our May 20, 2010 report. The purpose of our report is stated in Section 1.1 page 3: "The geotechnical investigation was for development of a baseline database for shallow-perched groundwater level regime at the proposed areas and development of empirical models of the shallow groundwater movement using monitoring data for the proposed monitoring period. However; this effort did not include any numerical modeling for forecasting the future groundwater regime at this time."

The objective of the study is further outlined in Section 6.0, page 21: "The objective of this investigation was to provide the shallow groundwater condition south of the channel between approximately Bolsa Chica Wetland and Warner Avenue and north of channel between Graham Street and Warner Avenue."

It is correctly stated in the BCLT letter on page 4: "The HAI study does not factor in the proposed development of Shea Parkside." This letter is to confirm that HAI did not study potential development of the Parkside Estates property and our report should not be used for an evaluation of the development of the Parkside property. We qualify that our findings, recommendations, and conclusions of this report should only be used for the levee improvements that are proposed in the report. As stated in the limitation section of the report page 31: "The opinions presented in this report are valid as of the present date for the property evaluated. This section of the report further states: "Therefore, this report is subject to review and should not be relied upon after a period of three years, nor should it be used, or is it applicable, for any other properties."

Should you need additional information or any clarifications please contact the undersigned.

Sincerely,

HUSHMAND ASSOCIATES, INC.



S. Ali Bastani, PhD, PE, GE 2458
Vice President, Principal Engineer

COASTAL COMMISSION

5-11-068

EXHIBIT # 21

PAGE 1 OF 1

CC: Meg Vaughn California Coastal Commission
Teresa Henry, California Coastal Commission
John Vander Velde, Shea Homes LP

250 Goddard Irvine, California 92618 (949) 777-1266 Fax (949) 777-1276
www.hushmand-associates.com

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SHAWN DEWANE
CATHY GREEN
STEPHEN R. SHELDON
HARRY S. SIDHU, P.E.
ROGER C. YOH, P.E.



ORANGE COUNTY WATER DISTRICT
ORANGE COUNTY'S GROUNDWATER AUTHORITY

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CLAUDIA C. ALVAREZ, ESQ.

First Vice President
PHILIP L. ANTHONY

Second Vice President
DON BANKHEAD

General Manager
MICHAEL R. MARKUS, P.E., D.WRE

May 15, 2012

Mr. John Vander Velde
Vice President
Shea Homes Limited Partnership
1250 Corona Pointe Court, Suite 600
Corona, CA 92879

Subject: Tract 15377 (Parkside) Huntington Beach – Groundwater Recharge and Storage Potential

Dear Mr. Vander Velde,

This letter is provided in response to your letter dated May 10, 2012, in which you inquired as to the Orange County Water District's (OCWD) consideration of the groundwater recharge and/or storage potential of the subject property adjacent to the East Garden Grove-Wintersburg Channel and west of Graham Street. Based on OCWD staff's review of hydrogeologic data collected from its nearby monitoring wells, we do not consider this location to be technically viable for surface infiltration for the purposes of groundwater recharge and storage. Our basis for this assessment is provided below:

1. The soils in the uppermost 30 feet below ground surface are predominantly fine-grained, with significant amounts of clays and silts. These sediments are relatively low permeability and are not conducive to infiltrating surface water.
2. The site ground surface elevation is near sea level. The depth to groundwater is generally less than five feet below ground surface. Such shallow groundwater conditions provide essentially no storage space to infiltrate and store surface water underground. Intentional recharge of surface water in this area could raise shallow groundwater levels to near ground surface which could create geotechnical issues.
3. Shallow groundwater beneath the site appears to be brackish. Thus, infiltration of surface water into this brackish shallow groundwater would not provide a benefit in terms of useable groundwater storage.

COASTAL COMMISSION

5-11-068

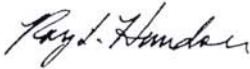
EXHIBIT # 22

PAGE 1 OF 2

May 15, 2012
Mr. John Vander Velde
Page 2 of 2

Thank you for your inquiry, and do not hesitate to contact the undersigned at (714) 378-3260 or rherndon@ocwd.com should you have any further questions.

Sincerely,



Roy L. Herndon
Chief Hydrogeologist

cc: Tim Sovich, OCWD

5-11-068
Exhibit 22
page 2 of 2



May 17, 2012

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

RECEIVED
South Coast Region

MAY 18 2012

CALIFORNIA
COASTAL COMMISSION

Re: Coastal Development Permit Application No. 5-11-068 (Shea Homes, Huntington Beach)

Dear Ms. Vaughn:

I am following up on matters that were discussed in our meeting on April 26, 2012 regarding the necessary remedial grading of a portion of the Parkside Estates site for purposes of dewatering, compaction and site stabilization. As you know, this remedial grading will be accomplished by a pattern of slot excavations of the site rather than excavating the entire development area all at once. To better illustrate the grading concept we have prepared a two sheet exhibit for your information.

The first exhibit sheet shows the slot grading concept in plan view. This plan view demonstrates the following items:

- Overall site
- The limits of remedial grading
- The temporary drying area
- A portion of the site is divided into typical removal areas
- A conceptual grading sequence

The second exhibit illustrates cross sections of the following:

- The first three typical areas for soils removal
- Cross section of the stages of removal and placement of compacted soil
 - Stage 1 represents a removal of existing wet and unsuitable soil. This soil will be placed on other areas of the site for drying. The material excavated would not be removed from the site. The area for drying would be located within the approved development footprint, in the area shown as "Limits of Remedial Grading and Temporary Drying Area". This drying will be accomplished by placing the wet dirt into small lifts and disking it to allow the material to be aerated. This material will be dried out and mixed to provide fill for a future removal area.

1250 Corona Pointe Court
Suite 600
Corona, CA 92879

951.739.9700 T
951.738.1758 F

COASTAL COMMISSION

5-11-068

EXHIBIT # 23 page 1 of 4

Shea Homes Limited Partnership &
Shea Homes Marketing Company

Independent member of the Shea family of companies

www.SheaHomes.com

May 17, 2012
Ms. Meg Vaughn
California Coastal Commission
Page 2 of 2

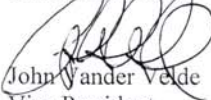
- o Stage 2 represents imported rock and mixed dirt material being placed back into removal area one. While this material is being placed into removal area one, removal area two will start having wet material removed from it.
- o Stage 3 represents the completion of the material replacement into removal area one, the completion of the removals of wet and unsuitable soils out of removal area two and the starting of removal area three.
- o Stage 4 represents the completion of the compaction of soils in removal areas one and two and the completion of the removal of area three.
- o Stage 5 represents the completion of the replacement and compaction of all three areas. This would be done while commencing removals on areas four and five.

These exhibits demonstrate how the site removals would work sequentially through the site. The entire area shown as the "Limits of Remedial Grading and Temporary Drying Area" would potentially have wet earthen material drying on it during the removal operations on a small portion of the site.

This type of removal operation is customary and no more than twenty percent of the site would have removal work underway at any one time.

Please feel free to call me at 951 549-7536 or e-mail me at john.vandervelde@sheahomes.com should you have any questions.

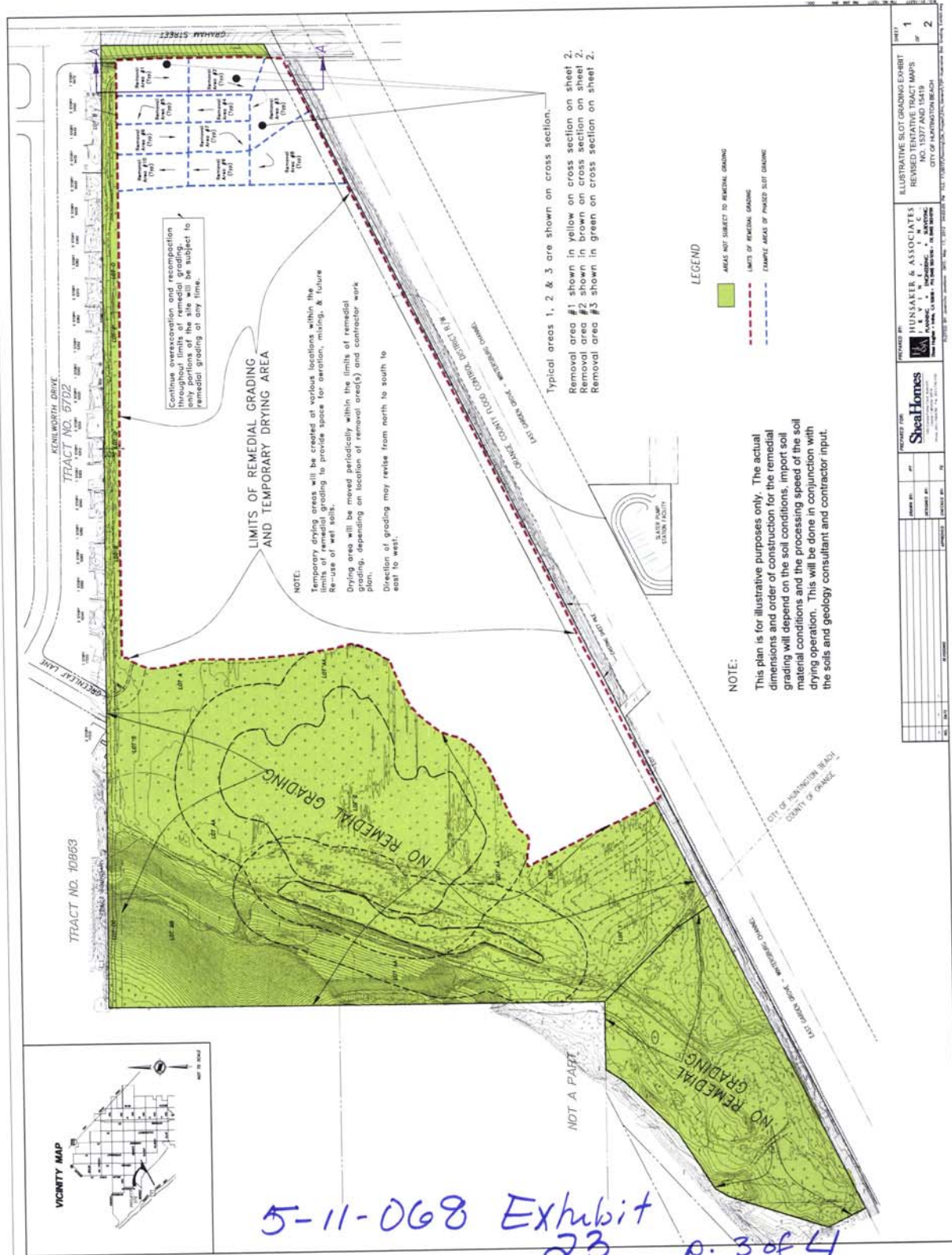
Sincerely,
SHEA HOMES LP


John Vander Velde
Vice President

Enclosure as noted

cc Ms. Teresa Henry
Mr. Karl Schwing
Mark Johnsson, PhD
Steven H. Kaufmann, Esq.
Ms. Nancy Lucast

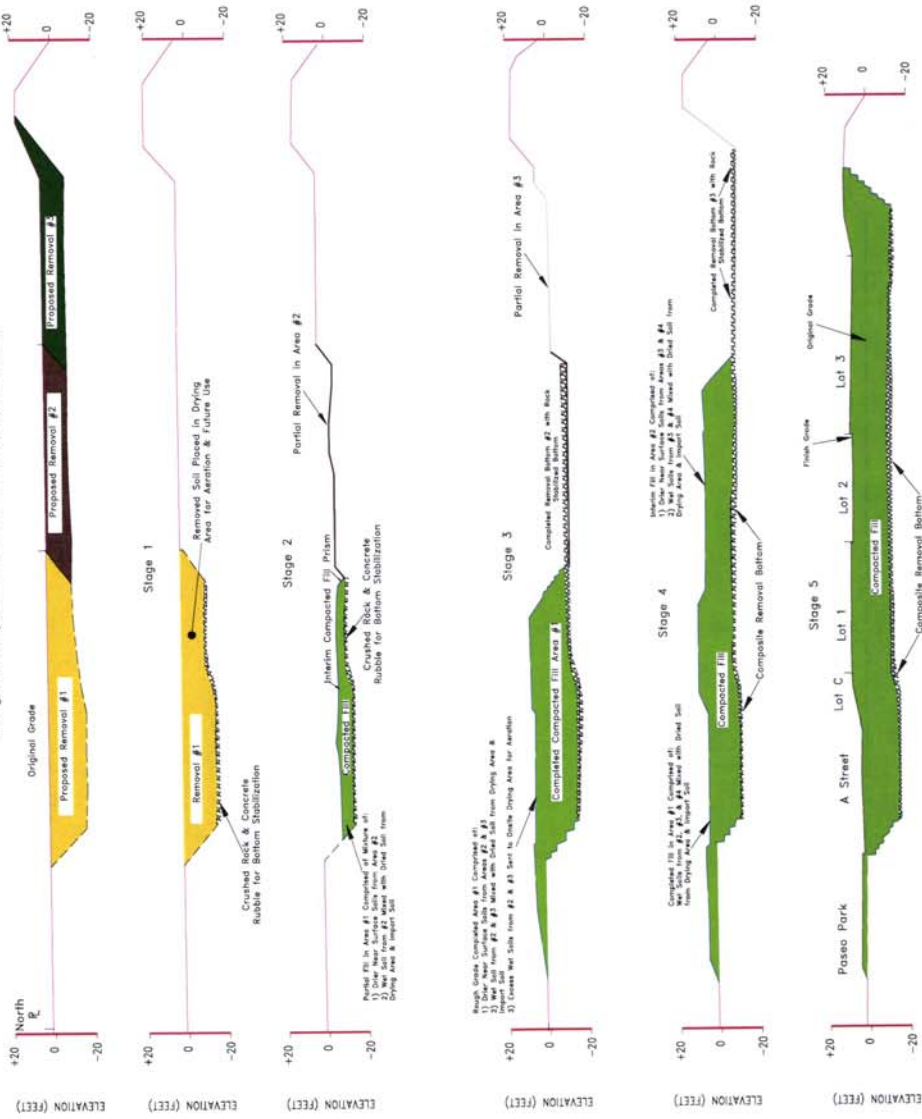
5-11-068
Exhibit 23
page 2 of 4



5-11-068 Exhibit 23 p. 3 of 4

PROJECT NO.	5-11-068	DATE	05/11/06
PROJECT NAME	Shea Homes	PROJECT NO.	068
DESIGNED BY	HUNSAKER & ASSOCIATES	DATE	05/11/06
CHECKED BY	H. V. L.	DATE	05/11/06
APPROVED BY	H. V. L.	DATE	05/11/06
SCALE	AS SHOWN	DATE	05/11/06
ILLUSTRATIVE SLOT GRADING EXHIBIT REVISIONS TO SHEET MAPS NO. 1517 AND 1519 CITY OF HASTINGS, NEBRASKA			
			SHEET 1 OF 2

PROPOSED COMPOSITE REMEDIAL SCHEMATIC
 This exhibit illustrates how soil will be removed for temporary storage and drying through a sequence of excavation operations, and how the excavated areas then will be sequentially prepared and re-filled. This methodology, which is the standard process for remedial grading for soils conditions like those on the site, ensures maximum opportunities for drying, mixing, and compaction as well as for monitoring and control.



ALTA CALIFORNIA GEOTECHNICAL, INC.
 10000 BAYVIEW AVENUE, SUITE 100
 SAN DIEGO, CALIFORNIA 92121
 PROJECT NUMBER: 1-0682

This plan, including notes, is the author's representation and warranty that the information was obtained from reliable sources and that the information was prepared in accordance with the standards of practice for the profession of geotechnical engineering.

5-11-068
 Exhibit 23
 page 4 of 4

Vaughn, Meg@Coastal

From: Jones, Phil [Phil.Jones@ocpw.ocgov.com]
Sent: Wednesday, July 18, 2012 3:39 PM
To: Vaughn, Meg@Coastal; Khan, Nardy
Cc: Onuma, Kevin; Fayad, Ali
Subject: FW: Shea Parkside flood protection feature

Hi Meg:

I am familiar with Shea Homes' proposed Parkside Development and proposed VFPP (Vegetated Flood Protection Feature). Currently, Shea Homes has been conditioned by the City to work with OCFCO/OC Public Works to construct flood protection improvements as part of their development. Such improvements consist of improving the C05 levee adjacent to their development, the VFPP, and some local drainage improvements which affect the Slater Pump Station. If the C05 levee improvements or the VFPP are not constructed by Shea Homes, several neighborhoods northerly of the C05 Channel will remain at high risk of flooding due to a major seismic event or storm event. The Orange County Flood Control District (or Orange County Tax-Payer) would be left with the responsibility to mitigate the flood risk if the VFPP is not constructed. The Shea Homes development would save OC Tax-Payers millions and millions of dollars in necessary flood control improvements if the VFPP and C05 levee improvements are constructed by Shea.

Currently, the levee downstream of the Old Oil Road Bridge (further downstream of the Shea property towards PCH) could breach during a major storm or seismic event. The flood flow (combined with high tidal flows) could overwhelm the small weak levee separating the ESHA and the muted tidal pocket and migrate upstream behind the C05 levee and attack the neighborhoods north of the C05 channel. Depending upon the size of the storm, the flooding could be substantial. The VFPP as proposed would prevent this from happening. The VFPP is actually at an ideal location to connect the C05 levee to the Bolsa Chica Mesa. Another possible location could be the Old Oil Road; however, that location is directly adjacent to the ESHA and could have adverse environmental impacts. The construction of the VFPP also opens up the possibility of greatly expanding the muted tidal lands by removal of the northerly C05 levee and sheet pile up to the VFPP.

I hope this answers your questions.

Phil Jones, P.E., Manager
OC Public Works – Flood Control Design
Phil.Jones@ocpw.ocgov.com
WK: (714)647-3977 (new)
FAX: (714)967-0884 (new)

From: Khan, Nardy
Sent: Wednesday, July 18, 2012 12:33 PM
To: Jones, Phil
Subject: FW: Shea Parkside flood protection feature

Phil,

Can you provide a reply for Meg?

Nardy Khan, P.E./P.M.P.

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PAGE 1 OF 2

7/19/2012

Engineering Supervisor
Projects & Regulatory Permits Unit
O: (714) 647-3906/C:714-679-5266/F: (714) 667-7520

From: Vaughn, Meg@Coastal [mailto:Meg.Vaughn@coastal.ca.gov]
Sent: Wednesday, July 18, 2012 12:27 PM
To: Khan, Nardy
Subject: Shea Parkside flood protection feature

Hi Nardy,

I have a question for the County's Public Works Department regarding Shea's proposed flood protection feature (Vegetated Flood Protection Feature, VFPF). If you are not the right person to direct these questions to, would you please let me know to whom I should direct them?

Shea's current proposal for developing their site adjacent to and north of the East Garden Grove Wintersburg flood control channel/Co5 and west of Graham Street includes construction of a "VFPF" between the flood control channel and the Bolsa Chica mesa bluff, in the southwest corner of the site.

Some of our Commissioner's have expressed concern with the VFPF. The County has sent letters indicating conceptual approval of the contemplated VFPF and reconstruction of the north levee. But would you please let me know the County Public Works/flood control's position on the necessity of the VFPF? What is the Public Works/flood control's position if the VFPF proposed by Shea were not constructed at the site as currently proposed by Shea? Would some form of flood protection be necessary in that area regardless of whether the Parkside site is developed or not? If so, is there a different and/or better location for a flood protection device? Please let me know if you have any questions about this.

Thanks very much,
Meg Vaughn
Staff Analyst

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7/19/2012



City of Huntington Beach

2000 Main Street ♦ PO Box 190 ♦ CA 92648

Travis K. Hopkins, PE
Director

Department of Public Works
(714) 536-5431

August 31, 2012

Ms. Meg Vaughn, Coastal Program Analyst
California Coastal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

RECEIVED
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Dear Ms. Vaughn:

RE: Application No. CDP 5-11-068 (The Parkside Estates)
Vegetated Flood Protection Feature (VFPF) and Flood Risk Responsibility

In response to your recent query by email, dated July 20, 2012, as addressed to Mary Beth Broeren, Planning Manager (copy attached), we have prepared a brief response to the questions you posed regarding the necessity of the Vegetated Flood Protection Feature (VFPF) that is part of the required flood hazard mitigation improvements for the Parkside Estates project as noted above. As you know, the Public Works Department for the City of Huntington Beach has worked closely with Commission staff, including Dr. Mark Johnson, Ph. D., staff Geologist; Orange County Flood Control; the U.S. Army Corps of Engineers; the Federal Emergency Management Agency (FEMA); U.S. Fish and Wildlife Service (USFWS); and the developer, Shea Homes, since 1996 to coordinate an effective flood protection system. The VFPF is one element in a hierarchy of improvements that would provide a logical and effective barrier between the existing residents and the work performed as part of the Bolsa Chica Lowland Restoration Project (BCLRP), located in unincorporated area directly adjacent to the City's corporate boundary.

Since its inception, and during the study, design and construction of the improvements related to the BCLRP, the City of Huntington Beach has expressed its concerns over the potential for flooding by the introduction of tidal flooding into the formerly dry area known as "the Pocket." Since the improvements to the BCLRP were completed, the only feature currently protecting the residents of the city from the tidal flooding in the Pocket is a former oilfield road that serves as a makeshift levee between the flooded area and the residential areas upstream. The USFWS therefore appropriately acknowledged in their correspondence (Letter from Jack Fancher, dated October 24, 2006) that

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August 31, 2012
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the Shea Homes project would provide that barrier "across the gap between the mesa and the flood channel" to prevent flooding of the Shea property and the properties beyond. All of the studies and hydrologic modeling reviewed by the City, Commission and other involved agencies have substantiated the threat level from the tidal and storm flooding, and the mitigation improvements needed to provide a reliable level of protection for the residential areas adjacent to and inland of the VFPP.

The flood threat and the necessity of constructing the VFPP were confirmed by Dr. Mark Johnsson's Geotechnical Review Memorandum which is part of the public record.

Not constructing the needed flood protection barrier would place the City of Huntington Beach in a very difficult position, and would compromise the city's primary role of providing protection for its citizens from major hazards, especially since the VFPP is a condition from the Orange County Flood Control District, and a required feature in the current Conditional Letter Of Map Revision (CLOMR) issued by FEMA. It is accurate to state that the City bears the flood risk within its jurisdiction; however the BCLRP has introduced a flood risk that was not previously present.

As a FEMA regulated and monitored city, Huntington Beach serves as the Flood Plain Administrator to provide planning, guidance and record keeping in relation to all development within the Flood Insurance Program areas within the community, not least of which includes ensuring that projects meet required floodproofing standards. Compliance with FEMA requirements has a direct bearing upon the safety of our residents and businesses, the flood insurance premiums paid by our community, and also upon the level of financial assistance that our community would receive should a major flooding event occur. Failure to perform our due diligence in this regard, and failure to implement the development standard and guidelines of both FEMA and the Army Corps of Engineers, would expose the city to higher costs, loss of favorable rating by FEMA for lower premiums, and, more critically, greater potential for property damage and loss of life.

Since completion of the BCLRP over six years ago, the state's commitment to submit the necessary FEMA certifications for their improvements has not been conducted, and it is not reasonable to conclude that this will be done in the near future. Therefore, the City firmly believes that the VFPP remains essential to provide the needed protection for the community. Once completed, Shea Homes can prepare an application for a regional Letter of Map Revision (LOMR) that will partially fulfill the state of California's commitment.

The preferred location of the VFPP will need to traverse the area between the East Garden Grove Wintersburg (C05) north channel levee and the bluff. The

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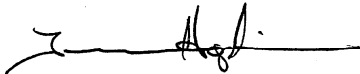
Ms. Meg Vaughn
August 31, 2012
Page 3

improved VFPF has already been extensively investigated by Coastal Staff, and its location within the buffer area has been determined to have the least environmental impact. It is clear that the state would never permit a structure to be built across their property (the wetlands), as the state would then be responsible for its continued maintenance. Furthermore, all other locations, regardless of property ownership, are in areas designated as wetland or ESHA.

Therefore, the VFPF would have to be built upon private property in order to tie into the bluff north of the channel levee to close the gap. The only way that the City could reasonably complete these improvements would be to obtain the necessary funding, and then obtain access by eminent domain to the property area currently owned by Shea to complete these improvements. The City does not have the financial means to undertake such a project, and does not want the community to remain at risk while such an endeavor, which would take many years and is uncertain at best due to lack of funding, was pursued.

It is therefore critical that the flood protection improvements be completed as soon as possible, including the FEMA Conditional Letter of Map Revision. Longer delays of this much needed improvement would not be in the best interest of our community.

Sincerely,



Travis K. Hopkins, PE
Public Works Director

TKH/DD:jg

Attachment

COASTAL COMMISSION

5-11-068

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From: Vaughn, Meg@Coastal [mailto:Meg.Vaughn@coastal.ca.gov]
Sent: Friday, July 20, 2012 11:37 AM
To: Broeren, Mary Beth
Subject: Parkside VFPP and flood risk responsibility

Hi Mary Beth,

I know you're still out on vacation. I hope you are having/had a great time!

There is no need to respond to the request below before your return. I just wanted to get this out to you now, while the questions are fresh in my mind.

We met yesterday (7/19/12) with Shea re Parkside. As you know some of our Commissioners have expressed concerns with regard to the VFPP proposed by Shea. I checked with Orange County Public Works/flood control re the need for the VFPP and what would be the expected conditions absent construction of the VFPP and re location of the VFPP. The County confirmed the need for the VFPP, the location, and the flood risk inland.

However, in our meeting with Shea yesterday, one of their consultants, Neil Jordan of Exponent, stated that, although the County would be the acceptor of the VFPP as it is currently proposed, if no VFPP (or equivalent) were to be constructed as proposed, the flood risk would be the responsibility of the City not the County, because the County is only responsible for the areas within their right-of-way. So I was hoping to get some input from the City re whether that assessment by Shea's consultant is accurate, and if so, the City's position re the flood risk conditions in the absence of a VFPP type structure in the area and what direction the City would need to take should no VFPP be constructed via the Shea Parkside project.

Also, if the VFPP would indeed play an important role in reducing flood risk in the City, it may be useful to have someone from Public Works (or whichever is the appropriate agency) present at the Commission's next hearing on the Shea Parkside project. The hearing date is not yet known, but I will let you know once it is known.

Please let me know if you have any questions regarding this request.

Thank you very much,
Meg

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Agenda #: W11b-6-2012
Application #: 5-11-068
(Parkside Estates CDP)
Commenter: BCLT
Position: OPPOSE

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Surfrider Foundation

June 3, 2012

California Coastal Commission
Mary K. Shallenberger, Chair
200 Ocean Gate, 10th Floor
Long Beach, CA 90802-4416

RE: JUNE 13, 2012, W-11b. **Application No. 5-11-68 (Shea Homes, Huntington Beach)**

Dear Chair Shallenberger and members of the Commission:

These comments are being submitted on behalf of the Bolsa Chica Land Trust, a grassroots, 501c3 nonprofit organization of nearly 5,000 members. Our objective is to provide recommendations to the California Coastal Commission (CCC) which will ensure protection of the coastal zone resource values of the Bolsa Chica ecosystem in Huntington Beach, California.

The Land Trust supports the 27 special conditions imposed on the project, including archaeological protections, public restrooms, and a halt to dewatering should problems arise.

However, the Land Trust opposes the staff recommendation to approve this CDP. The Land Trust believes this project should be denied for the following reasons:

- I. The VFPF is expressly forbidden by the City's LCP
- II. The LCP requires additional wetlands to be protected
- III. Enforcement action is needed on acknowledged unpermitted fill
- IV. The area is hydrologically connected to ground water - hazards remain
- V. Dewatering impacts to deep groundwater haven't been analyzed

The Land Trust is also perplexed that the Commission has agreed to re-hear the CDP as settlement of Shea Home's "taking" lawsuit since the application and project is the exact same as it was in October 2011. The accusation of a taking is without merit. Any property owner has the right to sell their property at a profit. That Shea Homes continually refuses to

5200 Warner Avenue - Suite 108 - Huntington Beach, CA 92649 - (714) 846-1001
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sell their property at a profit is not the Coastal Commission's fault. Nor is it the Commission's responsibility to create a profitable venture for a landowner.

At the October 2011 hearing, the Commission correctly voted to deny the CDP, as the project was not compliant with the Coastal Act. Above all things, the Coastal Act states that building on wetlands is permissible only under certain limited conditions, none of which apply to the subject property

The standard of review is now the City's certified LCP, which itself must be compliant with the Coastal Act. The project itself has not changed from October 2011.

I. VFPP Expressly Forbidden by the LCP

At the October 6, 2011 hearing, Commissioner McClure asked, "Does this project match the LCP?" The answer to that question is no.

The CDP application includes a proposed "Vegetated Flood Protection Feature", or VFPP, to control flooding both on the subject site and properties outside of the jurisdictional Coastal Zone. This feature is expressly forbidden by the City's LCP.

Page 3 of staff report W11b-6-2012 says:

"The path the tidal flooding would follow unavoidably crosses the subject site. The area in the southwest corner of the site between the flood control channel and the bluff provides a relatively narrow area within which construction of a barrier would allow the flooding to be captured and contained. Construction of the proposed "vegetated flood protection feature" (VFPP) within this narrow area between the two higher elevation areas (levee and bluff) presents the only feasible option for adequately insuring protection of the inland 170 acres of existing development. Protection of the inland 170 acres would also protect the 50 acre subject site from flooding."

As described on page 2 staff report W14e-2-2011 (geotechnical investigation of subject site):

"The subsurface flood protection structure must tie into the bluff that is located on the western edge of the project site and the flood control channel on the south, in order to provide the necessary flood protection and be geotechnically sound."

However—and this is a big however—such a protective device, or feature, is **expressly forbidden** by the City's Local Coastal Program Policy C 1.1.9, which states:

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"Minimize risks to life and property in areas of high geologic, flood (Figure C-33) and fire hazard through siting and design to avoid the hazard.

*New development shall be designed to assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area **or in any way require the construction of a protective device.** (1-C 20)" (emphasis added)*

The Vegetated Flood **Protection** Feature is clearly a "protective device". Could the project be built without the VFPF? Not according to the applicant's hydrologic consultants or the staff geologist:

"I concur with the applicant [of the related coastal development permit application] and his hydrologic consultants that some combination of reinforcement of the EGGWFCC levee and an additional levee/floodwall between the northern levee of the EGGWFCC and the river bluff to the northwest is a necessary component of flood control protection to assure that the Parkside Estates [subject] site will be free of flood hazards in a 100-year flood event." (pg. 55 of staff report Th22a-2-2007 concerning the LUP Major Amendment Request)

In other words, the VFPF is "require[d]" in the sense of Policy C 1.1.9 in order to enable the new development of Parkside Estates.

LCP Policy C 4.4.2 specifically protects the bluffs of the Bolsa Chica mesa from development in order to preserve these significant coastal resource landforms, yet also seems to provide a public safety exemption:

"C 4.4.2

Prohibit private development along the bluffs rising up to the Bolsa Chica mesa (the bluff face that rises above the northwestern edge of the Bolsa Chica low land) within the City's jurisdiction that would alter the natural landform or threaten the stability of the bluffs.

Drainage systems and other such facilities necessary to ensure public health or safety may be allowed provided that bluff alteration is restricted to the minimum necessary and is done in the least environmentally damaging feasible manner. (emphasis added)

The C 4.4.2 public safety exemption conflicts with the C 1.1.9 express prohibition against protective devices. In order to resolve this apparent conflict, the balancing provision provides guidance:

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"GENERAL RESOURCE PROTECTION POLICIES

The following general policies shall provide the framework for interpreting this Coastal Element:

1. When policies within the Coastal Element conflict, such conflicts shall be resolved in a manner which on balance is the most protective of significant coastal resources. (emphasis added)

2. Where there are conflicts between the policies set forth in this Coastal Element and those set forth in any element of the City's General Plan, other City plans, or existing ordinances, the policies of this Land Use Plan (LUP) shall take precedence.

3. In the event of any ambiguities or silence of this Coastal Element not resolved by (1) or (2) above, or by other provisions of the City's LCP, the policies of the California Coastal Act shall guide interpretation of this Coastal Element."

Per the balancing provisions of the LCP, Policy C 1.1.9 (forbidding protective devices) is the most protective of the coastal resource (the Bolsa Chica mesa bluffs), and therefore takes precedence over the C 4.4.2 exemption. Whether or not such flood protection would also protect homes beyond the subject site outside of the Coastal Zone is irrelevant.

This project must be denied as submitted because inclusion of a Vegetated Flood Protection Feature or any other protective device to protect new development is inconsistent with the LCP.

II. LCP Requires Additional Wetlands to be Protected

In January 2012, high groundwater started seeping out of the ground north of the previously delineated Shea AP wetland, forming surface ponding that has grown and spread slowly into AP. This surface ponding has persisted for five months to the present day June 2012. This recurring, groundwater-based ponding meets the City LCP definition of a wetland as explained in the May 28, 2012 comment letter by Mark D. Bixby which is hereby incorporated by reference in its entirety. The boundary of AP needs to be extended to encompass all of the groundwater ponding area, and the corresponding 100ft buffer must also be extended to accommodate AP's new dimensions.

Additionally, the project proposes to revegetate this groundwater-based wetland area as a combination of grassland and Coastal Sage Scrub (CSS), neither of which will survive the next time a months-long groundwater inundation episode occurs.

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This dual lack of protection and inappropriate restoration violate the following LCP requirements:

- Policy C 6.1.4 - The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain organisms and for the protection of human health shall be maintained and, where feasible, restored.
- Policy C 6.1.20 - Limit diking, dredging, and filling of coastal waters, wetlands, and estuaries to the specific activities outlined in Section 30233 and 30607.1 of the Coastal Act and to those activities required for the restoration, maintenance, and/or repair of the Municipal Pier and marina docks. Conduct any diking, dredging and filling activities in a manner that is consistent with Section 30233 and 30607.1 of the Coastal Act.
- Table C-2, Subarea 4K - All development shall assure the continuance of the habitat value and function of preserved and restored wetlands and environmentally sensitive habitat areas within the area designated Open Space-Conservation.

The CDP is not compliant with the LCP and therefore the project must be denied as submitted.

III. Enforcement Action Needed on Acknowledged Unpermitted Fill

The property has a long history of unpermitted fill importation and grading, activities which constitute development under Coastal Act Section 30106, and were performed without first obtaining required coastal development permits under Section 30600(a). The applicant claims the issue of unpermitted fill has been resolved, since former wetlands must be restored on site. However, the issue of enforcement has never been resolved.

BCLT Exhibit 1 is a Los Angeles Times article dated September 15, 1981, which documents an incident where the stables leaseholder imported a large quantity of unpermitted fill onto the property in part to "**prevent flooding during the rainy season**", a telling reference that hints at the property's historical wetland resources.

As discussed in the CCC Shea Parkside LCPA W16a-11-2007 staff report, after-the-fact CDP 5-82-278 was subsequently issued by the CCC which required removal of some of the fills. But the stables leaseholder, who never sought permission prior to importing the fills in the first place, never complied with the restoration. Thus the restoration obligation which runs with the land falls to Shea Homes as all parties acknowledge, and is part of the current CDP pending before the Commission.

However, the stables leaseholder continued his unpermitted development activities by importing still more fill in the late 1980s. The Huntington Beach Planning

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Commission staff report (BCLT Exhibit 2) dated August 15, 1989, for stables expansion CUP 89-2 notes under the heading "Land Use Violations" illegal stockpiling of fill that was red-tagged by Public Works on three separate occasions. That staff report goes on to note that "The site has been raised approximately 8 feet about the existing natural grade of the site". The project was conditioned to remove the fill, but as with CDP 5-82-278, the illegal fill was never removed.

The W16a-11-2007 staff report notes that CDP 5-82-278 is the **only** prior CDP ever recorded for the property. Thus no CDP was ever recorded for the unpermitted development described in CUP 89-2. The 1989 fills stand in violation of Section 30600(a), regardless of whether or not wetlands were present, and no enforcement action has ever been taken by the CCC.

After the property came under Shea ownership, these unpermitted fills from the stables era were then redistributed via grading (constituting development under Section 30106) to fill in the low wetland areas on the property, in violation of Sections 30233 (fill of wetlands) and Section 30600(a) (lack of CDP).

At the October 6, 2011 hearing, South Coast Deputy Director Sharilyn Sarb said of the improper fill:

"The full extent of those wetlands that we felt were historical were defined at that time [while reviewing the LUP in 2007], and it was acknowledged that there had been unpermitted grading and fill that was considered as if it had not occurred. And so the wetlands were delineated as if that unpermitted activity had not occurred. And we do believe that the EPA, AP, and CP wetlands--is what they're referred to-- is an accurate mapping of the historical wetlands on this property.

"The opposition is correct that we haven't started a separate enforcement action to address that unpermitted activity. I believe that we have been assuming that the restoration and the enhancement and creation of additional wetlands to address the unpermitted activity would occur as part of this Coastal Development Permit with this Habitat Management Plan that's being proposed as part of this CDP." (emphasis added)

The current staff report W11-b-6-2012 similarly summarizes on page 44:

*"In addition, the Commission found that additional wetlands would exist on site were it not for either unpermitted fill activities or farming activities that converted wetlands to dry lands. Any activities, whether normal farming activities or other, that result in the fill of wetlands **cannot be exempt from the need to obtain approval of a coastal development permit.**"* (emphasis added)

While it is heartening that staff's usual disclaimer on this topic has finally been removed from the discussion (that such unpermitted activities only occurred prior to the current ownership), the continued lack of enforcement per

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acknowledged improper activity is beyond baffling. Requiring restoration of the wetlands is only half of the equation of resolving an enforcement matter.

In January 2012, the Commission took action on an adjacent Bolsa Chica property, the Goodell site (Violation file V-5-11-001), for unpermitted development, assessing a \$450,000 fine **in addition to** requiring restoration, for digging some pits. The landform alterations on the Shea site have been 1) over a far larger area, 2) during a longer period of time, 3) comprised a greater amount of earth movement, and 4) have been extensively documented and reported to the Commission by both the Bolsa Chica Land Trust (LUP public hearings of May 10, 2007 and November 14, 2007) and the Commission's own staff GIS expert, Jonathan Van Coops (Van Coops Exhibit MMM memo dated July 2, 2007). Why the action against Goodell and no action against Shea? Failure to address unpermitted development only encourages further unpermitted development, not only at Bolsa Chica but throughout the state.

The issue of appropriate action for unpermitted development in violation of Section 30600(a) on this property must be addressed before taking action on the CDP.

IV. Hydrological Connectivity Exists - Hazard Remains

Page 44 of the W11b-6-2012 staff report states:

"Historically, this site was part of the extensive Bolsa Chica Wetlands system and was part of the Santa Ana River/Bolsa Chica complex. In the late 1890s the Bolsa Chica Gun Club completed a dam with tide gates, which eliminated tidal influence, separating fresh water from salt water. In the 1930s, agricultural ditches began to limit fresh water on the site, and in 1959, the East Garden Grove-Wintersburg Flood Control Channel (EGGWFC) isolated the site hydrologically."

The staff report is wrong regarding hydrological connectivity. Both the current groundwater ponding episode noted above (Bixby, 5/28/12), and the prior groundwater ponding episode from 2006, vividly demonstrate that this historical wetland has continued hydrological connectivity to other areas of Huntington Beach. During both groundwater episodes:

- Groundwater seeped and ponded north of AP on the Shea property.
- Groundwater seeped from curb joints on Greentree Ln, south of Warner Ave, north of the Shea property
- Various water bodies at Huntington Central Park (Huntington Lake, Talbert Lake, and the ponds at Shipley Nature Center) rose and fell in synchrony with the groundwater activity on the Shea property nearly 2 miles away.
- Slater Pump Station had to pump more frequently to manage Slater Channel water levels driven higher by direct groundwater seepage into the channel.

The "extensive Bolsa Chica Wetlands system" still exists, and the Shea property is a part of this hydrological system.

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At the October 6, 2011 hearing, Ron Metzler of Shea Homes dismissed any potential link between the dewatering of the Shea property and dewatering problems that arose at a construction site in another part of the city because the other site was "miles away". Yet as evidenced by the groundwater episodes of 2006 and 2012, just because areas of the city may not be in close physical proximity does not necessarily negate the possibility that the land will behave the same under similar circumstances—especially considering the fact that most of the city is at or below sea level. Regardless of how much Mr. Metzler boasted that "...we know what's going to happen likely before it does happen...", the fact remains that nature is unpredictable and is always full of surprises. This land is a historic wetland and the unprecedented amount of dewatering required to construct the housing on this historic wetland speaks volumes toward that fact.

V. Dewatering Impacts to Deep Groundwater Not Analyzed

Pages 5-6 of the W11b-6-2012 staff report assert (emphasis added):

*"Due to the subject site's elevations of 1 to 2 feet below sea level, the above described site excavations will extend below sea level, making dewatering operations necessary. **The groundwater that will be dewatered during construction is the perched water in the upper sediments.***

*The perched groundwater in the upper sediments is not near enough to the surface to develop wetland characteristics. **Groundwater (confined aquifer) exists within the project vicinity at depth, approximately 30 to 40 feet below the ground surface, confined within the uppermost Pleistocene sediments. The proposed dewatering will have no effect on the deeper groundwater.***

These conclusions disregard episodes of the deeper groundwater rising and seeping from the surface of the project vicinity as described in the Bixby letter dated May 28, 2012. The dewatering plan for the project calls for a series of dewatering wells sunk to a depth of 55 feet below ground surface. Given that the "deep" groundwater spent five months of 2006 and 2012 seeping from the surface, dewatering impact to the deep groundwater is highly likely, and given the regional nature of the deep groundwater, the impacts could extend well beyond the site and adjacent neighborhoods.

The engineering feasibility of dewatering at depths in which the deep groundwater is present has not been demonstrated, nor have the impacts ever been analyzed. As such, this project is inconsistent with LCP policy C 1.1.9 and must be denied as submitted.

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In Conclusion, while the Bolsa Chica Land Trust supports all of the Special Conditions imposed on this project, this CDP remains inconsistent with the City's certified LCP; unpermitted fill on the subject site remains unenforced; hazards due to unpredictable hydrology remain; and dewatering impacts may occur. Therefore, the CDP must be DENIED as submitted.

Sincerely,



Flossie Horgan
Bolsa Chica Land Trust

Attachments:

- BCLT Exhibit 1 - Los Angeles Times article
- BCLT Exhibit 2 - HB Planning Commission CUP 89-2 staff report excerpt

COASTAL COMMISSION
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Dumping of Fill Dirt in Bolsa Chica Wetlands Halted
LESLIE BERKMAN
Los Angeles Times (1886-Current File); Sep 15, 1981; ProQuest Historical Newspapers Los Angeles Times (1881 - 1985)
pg. OC_A3

BCLT Exhibit 1

Dumping of Fill Dirt in Bolsa Chica Wetlands Halted

By LESLIE BERKMAN, Times Staff Writer

Mounds of dirt from a City of Huntington Beach road project have been dumped on a portion of the environmentally prized Bolsa Chica lowlands in violation of the Coastal Act, state Coastal Commission officials said Monday.

The road contracting firm, All American Asphalt, has been ordered to stop dumping the dirt immediately after an order to do so was issued Monday by the commission. The firm estimated that over the last two weeks it has deposited 6,000 cubic yards of dirt and gravel on parts of 11 acres.

All American Asphalt's lawyer Steve Brown said Monday that the firm was told to stop the dumping or face possible legal action. He said the commission will also demand removal of the deposited dirt.

A Coastal Act violation, he said, derives from the fact that the dirt was dumped on the 11-acre Bolsa Chica wetlands, which are Bolsa Chica lowlands that the Coastal Commission has preliminarily designated as wetlands worthy of special protection.

To place dirt on such an area, he said, would require a special permit, one was granted by the Coastal Commission in this case.

Hugh Lee, the contractor's representative on the road

project, said the firm was unaware it was doing anything wrong.

Lee explained that Fred Wayne Burkett, who operates a commercial horse stable and animal farm on the 11 Bolsa Chica acres just north of the Wintersburg flood control channel, had been hired by the City of Huntington Beach to reconstruct about three miles of worn out roadways on Edinger Avenue and Spring Street.

Lee said All American Asphalt took Burkett up on his offer to accept an estimated 40,000 tons — 1,500

'Ignorance of the law is no defense,' says a Coastal Commission lawyer.

truckloads — of dirt that the road excavation was expected to generate. Lee said he was amazed that Burkett had a use for so much dirt.

Burkett said Monday that he intended to use the dirt to build a new stable and corral to prevent flooding during the rainy season, and to construct a series of small canals and ponds that he planned to stock with fish.

Burkett said his plans were endorsed by the Metropolitan Water District of Southern California, from whom he leases the 11 acres for his stable and a local official of the state Department of Fish and Game.

The Metropolitan Water District, in a statement released late Monday, acknowledged that Burkett had asked permission to allow the dumping on its property and that there appeared to be no reason why it couldn't be done.

However, the water district added that it did not know about the wetland restrictions and it disclaimed responsibility for any violation of the law.

It was on the ground in compliance with the law and if anything was done that was not in compliance, it is up to the lessee to remedy the situation," the district said.

The 11-acre parcel was acquired by the water district about 10 years ago. A district spokesman said that was planned to be built offshore. These plans fell through, he said.

Kil Novak, Fish and Game's local representative, said that although he supported Burkett's application for the illegal use of fill, which he contended would be used mostly for other purposes.

"Ignorance of the law is no defense," said Coastal Commission lawyer Steve Brown. He said that the contractor and the contractor and the water district could be held liable.

However, he said that apparently the City of Huntington Beach is not responsible for the actions of the contractor since it never gave actual or expressed consent.

Brown said he first learned that truckloads of fill

were being taken to Bolsa Chica last Thursday. He said he was so informed by an official of the Federal Environmental Protection Agency, who in turn had been advised by a biologist working in the area.

Brown said, but he added that it seems to be indicative of a disturbing trend. "A lot of people have been filling wetlands and it has been going on statewide recently," he said.

He noted that as recently as June, the state attorney general's office at the Coastal Commission's request filed a lawsuit accusing Signal Landmark Inc. and other parties of illegally plowing and grading another part of Bolsa Chica. That suit is still pending trial.

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1. Condition No. 4 - No structure other than those shown on the approved site plan shall be constructed.
24 horse stalls not shown on the approved site plan were found to be in place north of the arena.
2. Condition No. 11 - The 5-acre facility shall not exceed 25 horses per acre or a maximum of 125 as permitted by Section 9670.3.
128 horses counted on the 12-acre site (300 horses would be allowed based upon City standards).
3. Condition No. 12 - Solid waste shall be removed from the site a minimum of twice weekly by an approved commercial collection company.

The stable owner stated that horse manure was being picked up every 2 to 3 days with no set schedule.

4. Land Use Violations

- a. Unpermitted fill dirt (stockpiling)
New dirt (less than one year old on the east end of the site) placed on the premises;
Red tagged by Public Works on 1/20/89, 2/3/89, and 2/28/89 for violations of Section 17.10.010(a) of the Huntington Beach Municipal Code and Section 7003 of the Uniform Building Code (permits for grading are required). The applicant has indicated it will be removed following Planning Commission action.
- b. Pigeon coop
Located on the south side of the site with approximately 75 to 100 pigeons within City limits; maximum 10 fowl permitted.

The initial inspection indicates compliance with Conditional Use Permit No. 86-60, with the exception of the additional 24 horse stalls being placed on the site. As noted earlier, the additional 24 stalls along with the proposed 36 stalls is in compliance with the allowable density of 125 horses on the 5 acre site.

The specific location of the stockpiling of dirt is in the southeast area of the site. This is the location of the proposed expansion. The site has been raised approximately 8 feet above the existing natural grade of the site which would bring the site's elevation to the height of the Wintersburg Channel embankment. The placement of a 12 foot high stall in this area would indicate that the stalls are approximately 8 to 10 feet above the channel. This would impact the residential property to the south. The applicant is required as a condition of approval for the proposed expansion to provide a grading plan and obtain a stockpiling permit from the Public Works Department to eliminate the unpermitted fill and maintain the

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Staff Report - 8/15/89

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(3364d)

BCLT Exhibit 2

elevation from the area to the natural level prior to the illegal stockpiling. This, in addition to the stalls being setback a minimum of 300' will reduce the visual and noise impact of the stalls upon the residential property to the south.

Another violation noted by the Land Use Division is the housing of racing pigeons on site. The inspection noted approximately 75 to 100 pigeons. The Municipal Code allows approximately 10. The applicant will be required to reduce the number of pigeons on-site to comply with Code.

In an effort to address the concerns of the residential properties to the southeast, the Planning Division, Land Use Division and the County of Orange (see attachment #8) are working together to abate the land use violations and bring the site into conformance with all approved and proposed plans. The applicant will be required to abate the land use violations regardless if the proposed expansion is approved or denied within 90 days of final action.

10.0 RECOMMENDATION:

Staff recommends that the Planning Commission approve Negative Declaration No. 89-10 and Conditional Use Permit No. 89-2 as modified by staff and Conditional Exception (Variance) No. 89-32 for waiver of landscaping and fencing and reduced setback for watchman's trailer only with the following findings and conditions of approval:

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 89-2:

1. Operation of the use will not create a detrimental effect upon the general health, welfare, and safety of persons residing or working in the neighborhood, insofar as the use is compatible with the surrounding area and in conformance with the City's General Plan.
2. The use is compatible with existing uses in the surrounding area and does not detract from the rural environment of the area.
3. The site plan and design of the existing facilities are harmonious with adjacent structures and uses in that they conform with the existing facilities.
4. The arrangement, access, and parking for the use has not created an undue traffic problem.

FINDINGS FOR APPROVAL - CONDITIONAL EXCEPTION (VARIANCE) NO. 89-32:

1. The granting of Conditional Exception (Variance) No. 89-32 for landscaping, fencing, and the placement of the watchman's trailer within the minimum 300' setback requirement will not be materially detrimental to the public health, safety and welfare or injurious to the surrounding uses in the neighborhood since exceptional circumstances apply to the land which preclude detrimental effects.

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Staff Report - 8/15/89

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(3364d)

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Agenda #: W11b
Application #: 5-11-068
(Parkside Estates CDP)

A copy of this letter has been
provided to Coastal
Commission Staff

June 8, 2012

Mary K. Shallenberger, Chair
And Members of the Commission
California Coastal Commission
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Re: June 13, 2012, W-11b. Application No. 5-11-68 (Shea Homes, Huntington Beach)

Dear Chair Shallenberger and Members of the Commission:

I am writing to address the claims made in the May 28, 2012 letter from Mark Bixby and the June 3, 2012 letter by the Bolsa Chica Land Trust (BCLT). In the BCLT letter, the Land Trust makes five arguments against the approval of the project, the second of which is the subject of the Bixby letter.

One: VFPF assertion is wrong – It is required by the Certified LCP

BCLT's first assertion is that the VFPF is expressly forbidden by the City's Local Coastal Program Policy C 1.1.9. This statement is false and fails to incorporate other critical sections of the City's LCP that are site-specific to Parkside Estates and which the Commission expressly included as Suggested Modifications in approving the LUP in 2007.

Thus, as the staff report explains,

"The City's certified LCP LUP Policy C 6.1.2.7 allows flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development." It further states, "In addition, the certified LUP, specific to the subject site, requires: 'Minimization/mitigation of flood hazard shall include the placement of a FEMA certifiable, vegetated flood protection levee that achieves hazard mitigation goals and is most protective of coastal resources including wetlands and ESHA.'" (page 85; emphasis added.)

Section 210.04(S) of the City's LCP Implementation Plan further provides that the permitted uses, development requirements and restrictions that are applicable to the Parkside site are set forth in Table C-2 of the Coastal Element Land Use Plan. This Section specifically states that if there is a conflict between the requirements and restrictions of Table C-2 and other provisions of the Zoning and Subdivision Ordinance, the requirements and restrictions included in Table C-2 shall prevail.

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COASTAL COMMISSION

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Shea Homes Limited Partnership &
Shea Homes Marketing Company
Independent member of the Shea family of companies

www.SheaHomes.com

Table C-2 of the Coastal Element Land Use Plan lists the requirements for development of the property. Item 10 is a Hazard Mitigation and Flood Protection Plan that requires: "minimization/mitigation of flood hazard shall include the placement of a FEMA certifiable, vegetated flood protection levee that achieves hazard mitigation goals and is the most protective of coastal resources including wetland and ESHA." Further, Table C-2 states that the following is allowed within the Wetland Buffer area: "a vegetated flood protection levee is a potential allowable use if, due to siting and design constraints, location in the wetland buffer is unavoidable, and the levee is the most protective of coastal resources including wetland and ESHA." Table C-2 also allows this feature in the ESHA buffer: "vegetated flood protection levee that is most protection of coastal resources including wetland and ESHA." Again, these are provisions that the Commission included by way of Suggested Modifications in approving the LCP.

Section 216.08 of the City's LCP Implementation Plan sets forth the Permitted Use and Structures for property that is zoned Coastal Conservation, which is the zoning designation for the area where the proposed vegetated flood protection feature (VFPF) would be located. Subsection C.3.b. allows for Flood Control Facilities as follows: "only in conjunction with restoration plans, new flood control facilities where necessary for public safety and to protect existing development where there is no other feasible method for protection structures in the flood plain." As has been documented, the VFPF, which will be constructed in conjunction with habitat restoration, will provide flood protection to existing homes north of the Parkside property. Subsection D mirrors Section 210.04(S) and establishes that the permitted uses for the Parkside site are set forth in Table C-2.

Section 216.18 of the City's LCP Implementation Plan lists the Performance Standards for projects within a Coastal Conservation area. Subsection A.5. requires that "environmentally sensitive habitat areas shall be restored and enhanced to lessen the risk of flood damage to adjacent properties."

Section 221.21 of the City's LCP Implementation Plan addresses Hazards requirements in an area with a Coastal Zone Overlay. Subsection D states that development of the Parkside site shall comply with the approved Hazard Mitigation and Flood Protection Plan required in Table C-2 of the Coastal Element Land Use Plan, which as indicated above allows for the VFPF.

As you can see, when reviewing the entire record and the site-specific provisions of the LCP for Parkside Estates, it is clear the VFPF is not only an allowed use but one that is required. BCLT's argument is misleading and wrong.

Two: Additional wetlands assertion is wrong – Staff agrees it does not meet wetland criteria

The second claim in the BCLT letter, and the primary claim of the Bixby letter, is that the LCP requires additional wetlands are to be protected. The claim states that some areas of the site that this year have experienced standing water and wet soils caused by high groundwater should be considered additional wetlands.

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This area has been reported in an updated wetlands delineation report by Glenn Lukos Associates, which states that the area is not a wetlands because it does not meet the Commission's three wetland parameters – hydric soils, hydrophytes and hydrology. In a conversation on June 4, Dr. Dixon stated he agrees with this finding. This report has been submitted to Commission staff and is cited in the staff report. Staff agrees that there are not any additional wetlands on the property beyond what is identified in the Certified LCP. The staff report states "No new evidence has been submitted to support the suggestion that areas not previously recognized by the Commission as wetland now exhibit wetland characteristics." (page 63) In any event, the entire area that experienced temporary ponding lies within the area designated for habitat restoration and protection under the LCP, as proposed in our application. Approximately two-thirds of the area that experienced temporary ponding is within the AP wetland, with the remainder within the resource-protected areas of the AP and EPA buffers.

It should be noted that in 2006, the year before Parkside's LUP hearing, a similar condition arose. The matter was discussed at length in the 2007 LUP hearing, and the Commission did not designate any new wetlands based on this temporary condition.

Three: Unpermitted fill assertions are wrong – It is specifically addressed by the LCP

The third issue raised in the BCLT letter is that enforcement action is needed on unpermitted fill they allege occurred prior to Shea's ownership. In 2007, the Commission addressed this issue in the approved LUP. Suggested Modification 11, thereafter incorporated into the certified LCP, states:

"Any areas that constituted wetlands or ESHA that have been removed, altered, filled or degraded as the result of activities carried out without compliance with Coastal Act requirements shall be protected as required by the policies in this Land Use Plan." [Emphasis added]

There are two areas in our plan which will fulfill the requirements of the certified LCP. The first is the area known as the CP wetland. The LCP requires that this wetland area be expanded from 1.0 acres to 1.4 acres. Our proposed project complies with this and the Commission staff agrees. The second area involves the ag-related movement of soils in the farm field. The requirement in the LCP is to provide 4.0 acres of created wetlands, designated the EPA wetland, which our proposed project complies with and the Commission staff agrees.

The staff report states "The proposed project will restore area previously impacted by unpermitted development." (page 101) That is precisely what the Commission's Suggested Modifications and now the City's certified LCP require. BCLT's argument ignores the certified LCP and is wrong.

Four: Hydrological connectivity assertion is wrong – There is not a hydrological tie to Bolsa Chica

BCLT's fourth issue relates to "hydrological connectivity," and states that a Bolsa Chica wetlands system may still exist, and that the Shea property is part of this hydrological system. Therefore, the claim concludes, the site is part of historic wetlands. We agree that the current groundwater conditions are regional in nature, periodic

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EXHIBIT # 3 of 12

and temporary. However, every groundwater example cited in the BCLT letter is fresh water, but the groundwater in the Bolsa Chica Wetlands is saltwater, so there is clearly a hydrological disconnect. BCLT recognizes this, referring to groundwater that "rose and fell in synchrony."

We believe the reason the groundwater "rose and fell in synchrony" is because it is a regional phenomenon caused by the combination of the high rainfall last year and the groundwater pumping procedures of the Orange County Water District (OCWD) and the City of Huntington Beach. The OCWD has been pumping water into the County aquifer's saltwater intrusion barrier and until recently, the City has been pumping less water out of the aquifer, because last year's exceptionally heavy rainfall has reduced irrigation needs. It is easy to see, based on this, why groundwater levels are rising in the region.

Five: Dewatering assertion is wrong – It has been extensively reviewed and addressed by staff

BCLT's fifth issue states the dewatering impacts to deep groundwater have not been analyzed. This is not true. The proposed dewatering methodology and conditions on the site were studied in detail in a report by Pacific Soils Engineering, Inc., dated January 15, 2004. Additional information was provided to the Commission in three additional reports by Pacific Soils over the past five years.

We have thoroughly studied the groundwater at different elevations; the dewatering impacts have been analyzed in these various reports; and our plans, which use conservative and proven slot grading and dewatering technology, were developed based on these findings. This approach is designed to minimize the amount of the property that will be undergoing dewatering at any given time.

The BCLT correctly points out that the dewatering program will include a series of wells pumping from a depth of 55 feet below the ground surface. What BCLT fails to understand is that this dewatering of the site is localized during the construction due to the slot grading technique, and that the possible effects of the pumping were studied and are shown to be insignificant. The material presented to the Commission's staff by Shea discussed these targeted drawdowns in detail. Importantly, this information has been reviewed by the Commission's Staff Geologist and he is in agreement that our project proposal and methods are feasible. Additionally, the Commission staff has included Special Condition 26 requiring careful monitoring of both dewatering and drawdown to track differential settlement and protect against damage to existing adjacent development.

The project as proposed meets all the terms of the Certified LCP. We ask that the Commission support the staff's recommendation for approval.

Sincerely,
SHEA HOMES LP


John Vander Velde

Vice President

Cc Ms. Meg Vaughn
Ms. Theresa Henry
Mr. Karl Schwing

COASTAL COMMISSION

5-11-068

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A copy of this letter has been provided to Coastal Commission Staff

W. 11. B



June 11, 2012

Mary K. Shallenberger, Chair
and Members of the California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: Coastal Development Permit Application 5-11-068 (Shea Homes, Huntington Beach)

Dear Madam Chair and Members of the Commission:

After consultation with Commission staff, Shea Homes requests that the Commission adopt two minor revisions to the Special Conditions for CDP 5-11-068. The modifications requested are summarized as follows:

- Special Condition #2 - Habitat Management Plan – expansion of the wetlands portion of the Habitat Management Plan to include recent ponding areas into the EPA wetlands, and
- Special Condition #6 - Entry Monumentation – clarification that low garden planter walls are allowable.

It is our understanding from our discussions with your staff – Teresa Henry, Karl Schwing and Dr. John Dixon – on June 5th, 2012, that these requested revisions are acceptable.

The exact text of the requested modifications is attached.

Sincerely,
SHEA HOMES LP

John Vander Velde
Vice President

Attachment – Applicant’s Requested Minor Modifications to Special Conditions

Cc Ms. Teresa Henry
Mr. Karl Schwing
Steven H. Kaufmann, Esq.
Ms. Nancy Lucast

COASTAL COMMISSION

5-11-068

EXHIBIT # 27

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W11b, Hearing date: June 13, 2012

APPLICANT'S REQUESTED MINOR MODIFICATIONS TO SPECIAL CONDITIONS

[Requested modifications are highlighted and displayed in ~~strike-out~~/underlined font.]

SPECIAL CONDITION 2: HABITAT MANAGEMENT PLAN

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a revised Habitat Management Plan that incorporates the following changes:

1) Eliminates any fencing and/or gate(s) that interfere with public use of the Vista Point trail across the entire length of the top of the vegetated flood protection feature (VFPF). Any reference to such fencing and/or gate(s) shall be eliminated from the HMP. Figures 1-4, 4-1, 6-1, 6-2, 7-1 shall be replaced with figures that delete such fencing and/or gate(s) across the top of the VFPF Vista Point trail;

2) Incorporate the low point in the agricultural field near the northwest portion of the planned EPA Wetland, which in 2012 was evidenced by high ground water, into the EPA Wetland restoration program; adjust the grading and planting plans accordingly, so that a 100-foot upland buffer from the enlarged wetland restoration area remains. This modification to the wetland dedication area is depicted in Exhibits XXX and YYY, attached hereto.

23) On page 4-17 and page 6-17 delete the sentence "Remedial measures will be developed in consultation with CCC staff and approved by the Executive Director prior to implementation."

34) Replace the deleted sentence on page 4-17 and page 6-17 with the following sentence: "Remedial measures shall require an amendment to this coastal development permit unless the Executive Director determines that none is legally required."

45) Requires all quantitative sampling to be based on spatially stratified, randomly placed sampling units;

56) In Appendix A (Maintenance and Monitoring Schedule), replace the term "long-term maintenance plan" with "long-term management plan."

SPECIAL CONDITION 6: ENTRY MONUMENTATION

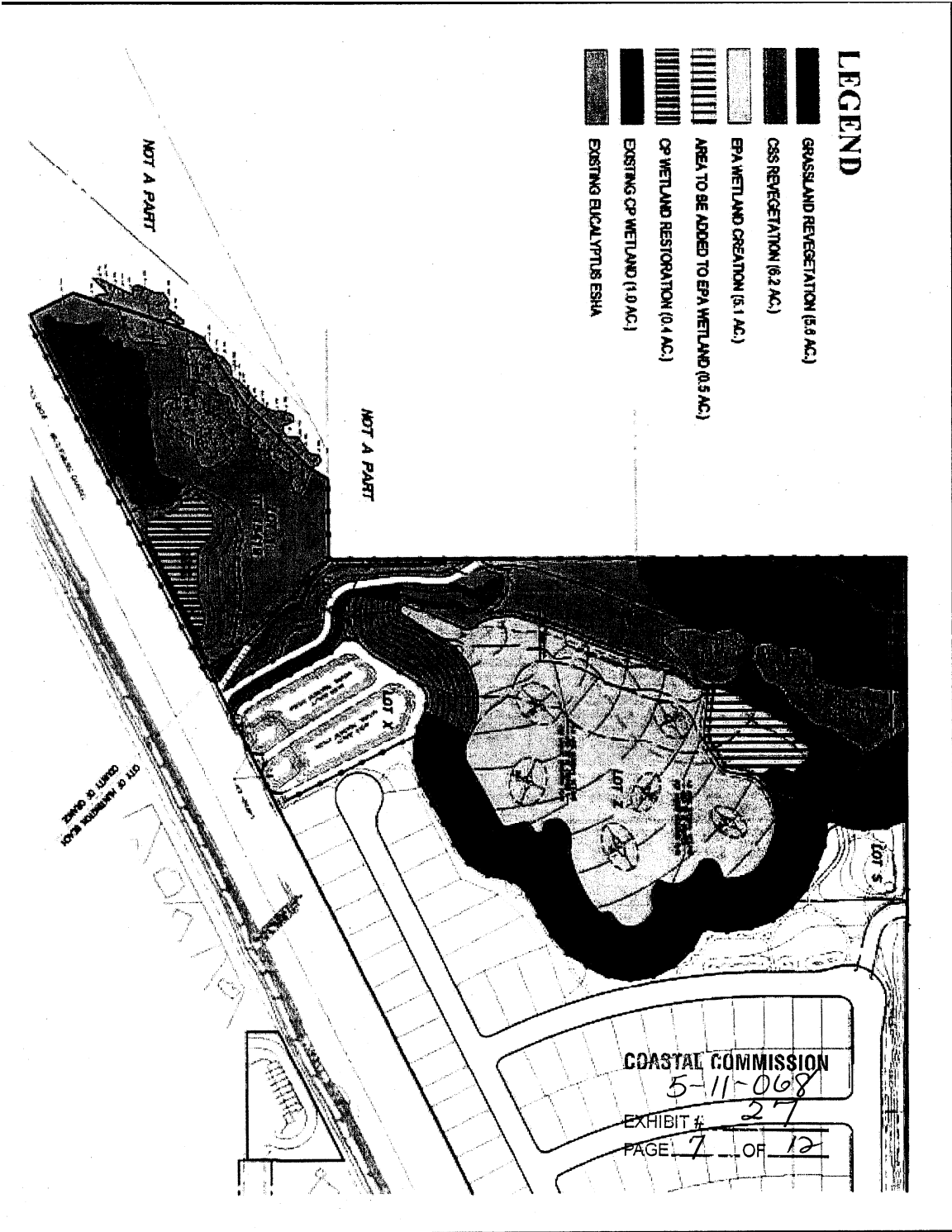
A. All entry monumentation, including signage, walls, and arbors, shall be eliminated from the project, with the exception of signage approved pursuant to Special Condition 3 of this permit and a minimal number of garden/planter walls not to exceed 42" in height. Prior to issuance of the Coastal Development Permit, the applicant shall submit revised plans, for the review and approval of the Executive Director, reflecting this requirement.

COASTAL COMMISSION

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MARK JOHNSON
Staff Geologist
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California 94105-2219

June 6, 2012
Project No. 1-0042

Subject: ADDITIONAL INFORMATION REGARDING GROUNDWATER AND DEWATERING
Coastal Development Permit Application 5-11-068
Parkside Estates, Huntington Beach, California

References: See Appendix

Dear Mr. Johnson:

Thank you for your input to our meeting of June 5, 2012. As discussed in that meeting, the issue of groundwater and dewatering has been addressed in numerous PSE reports that are on file with the Commission. Those reports are shown in the appendix of this report and discussed in the following narrative. We are also providing herein our rebuttal to assertions made by BCLT in their June 3, 2012 transmittal to the Commission.

In Item V of the BCLT letter, they correctly point out that the dewatering program will include a series of wells pumping from a depth of 55 feet below ground surface. They are also correct that episodes of high groundwater have been observed in 2006 and 2012, following unusually large amounts of rainfall in the prior year.

We have obtained records of OCWD monitoring wells in the vicinity of Parkside. The locations of these wells (OCWD 18, 20 and BS02) are shown on the attached OCWD Facility Location Map. The records (datum corrected from NGVD 29 to NAVD 88) have been plotted along with the data from MW3 located at the northern boundary of Parkside on the attached graph titled "MW3 and Offsite Wells." The records of those wells demonstrate that "deeper" waters monitored below Parkside since 1999 are part of a regional system that has fluctuated from

COASTAL COMMISSION

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June 6, 2012

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elevation minus 22 to slightly above sea level since 2005. Similar fluctuations have been demonstrated by regional and onsite wells dating as far as 1977 as reported in PSE, 2007.

We agree with BCLT that the periodic episodes of ponded water on Parkside in 2006 and 2012, and seepage seems to be taking place in the adjacent neighborhoods and areas within a couple of miles from Parkside in the same time frames are attributed to the episodic rises in this regional system. We disagree with BCLT that the dewatering efforts will produce *"impacts that could extend well beyond the site and adjacent neighborhoods."* We also disagree with the BCLT conclusion that *"the engineering feasibility of dewatering at depths in which the deep groundwater is present has not been demonstrated, nor have the impacts ever been analyzed."* These conclusions are incorrect.

In PSE, 2004, analyses by Foothill Engineering, Inc. (Foothill) a dewatering contractor, were presented. Those analyses addressed an earlier development concept with the assumption that the starting elevation of the groundwater was minus 2 feet and that drawdown elevations discussed in PSE 2004 were to be targeted. Following revision to the development to produce the present plan, Foothill again provided analyses of the dewatering as presented in PSE, 2009. Those analyses utilized a typical summer/fall starting groundwater elevation of minus 12, targeting the drawdown elevations discussed in PSE 2008.

These analyses clearly demonstrate that the issue has, in fact, been addressed and the dewatering plan is, in fact, feasible. The final dewatering plan will be designed by the dewatering contractor and geotechnical consultant and will consider:

- 1) The actual groundwater elevation at the time of construction.
- 2) The results of preliminary pump tests to establish drawdown characteristics.
- 3) The target drawdown elevations and target boundary constraints.

The monitoring recommended by PSE, 2008 and required by Special Condition 26 will provide a means to monitor the impacts of the dewatering.

ALTA CALIFORNIA GEOTECHNICAL, INC.

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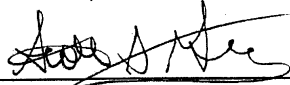
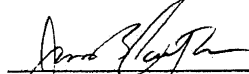
Project No. 1-0042
June 6, 2012

Page 3

Please feel free to contact me if you have any questions or need any additional information in this matter.

Respectfully submitted,
ALTA CALIFORNIA GEOTECHNICAL, INC.

Reviewed by:



JAMES B. CASTLES/RGE 192
RCE/30280/Reg. Exp.: 3-31-14
Registered Geotechnical Engineer

SCOTT A. GRAY/RGE 2857
Reg. Exp.: 12-31-12
Registered Geotechnical Engineer
Practice President



Distribution: (1) Addressee

Cc: John Vander Velde
Steven H. Kaufmann, Esq.
Ms. Nancy Lucast

JBC: SAG: skt-1-0042, June 6, 2012 (Additional Information on Groundwater & Dewatering, Parkside)

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ALTA CALIFORNIA GEOTECHNICAL, INC.

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APPENDIX

References

Bolsa Chica Land Trust (2012), Re June 13, 2012, W-11b. Application No. 5-11-68 (Shea Homes, Huntington Beach) June 3, 2012.

Pacific Soils Engineering, Inc., (2004). Summary of Required Grading Operations and Construction Monitoring Requirements, Parkside Estates, Tract 15377, City of Huntington Beach, California. Work Order 102300, January 15, 2004.

---. (2007). Update Groundwater Monitoring Data, Parkside Estates, City of Huntington Beach, California. Work Order 102300, April 18, 2007.

---. (2008). Updated Geotechnical Report and 40-scale Grading Plan Review, Parkside Estates, Tract 15377, City of Huntington Beach, California Work Order 102300, November 25, 2008.

---. (2009). Cover Letter to Accompany Dewatering Review, Tentative Tract Map 15377, Parkside Estate, City of Huntington Beach, California Work Order 102300, November 14, 2009.

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ALTA CALIFORNIA GEOTECHNICAL, INC.