

**CALIFORNIA COASTAL COMMISSION**

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

**W17.5a**

Click here to go to  
 original staff report

**ADDENDUM**

May 12, 2015

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM W17.5a, CDP AMENDMENT NO. 5-82-291-A5  
 FOR THE COMMISSION MEETING OF WEDNESDAY, MAY 13, 2015.**

**1. CHANGES TO STAFF REPORT**

Commission staff recommends modifications to the staff report dated 5/1/15 in the following sections of the staff report: Summary of Staff Recommendation, Section III (Special Conditions), and Section IV (Findings and Declarations). Language to be added to the findings and conditions is shown in underlined text, and language to be deleted is identified by ~~strike-out~~.

**A. Page 2 – Clarify Proposed Project in Summary of Staff Recommendation:**

... blufftop walkway, view points and the Vista Point Park on the seaward portion of the site. The proposed amendment involves new development within ~~and along the seaward side of the~~ subject property. The major issues addressed by the current proposal are public access, parking, scenic and visual resources, and water quality.

Since the original submittal of the proposed project, the permittee has provided clarification of the proposed project elements, but the associated project plans have not been submitted. Thus, the Commission imposes a special condition requiring the permittee to submit final project plans. In addition, these plans shall include an access corridor plan that provides detailed plans for the proposed lighting, landscaping, signage and enhanced pavers for the public access walkway that is proposed to be reconstructed. In addition, the plans shall also indicate there shall be no gate or barrier at the entrance to or along the southeast public access walkway at Ritz Carlton Drive.

...

**B. Page 6 – Clarify Required Final Project Plans In Special Condition No. 2:****2. Final Project Plans.**

- A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the permittee shall submit, for the Executive Director's review and approval, two (2) full size sets of final project plans (i.e., site, floors, elevations, cross section, grading, drainage, foundation, etc.). The final plans shall be in substantial conformance with the plans received by South Coast District staff on August 15, 2014,

except they shall be modified to demonstrate that the proposed development includes the following:

- 1) Access Corridor Plan: This plan shall provide plans for the proposed lighting, landscaping, signage and enhanced pavers for the public access walkway. These plans shall also be consistent the requirements set forth by Special Condition No. 4 and Special Condition No. 10 below.
- 2) The plans shall also indicate that there shall be no gate or barrier at the entrance to or along the southeast public access walkway at Ritz Carlton Drive.

- 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 legally required.

...

### **C. Page 14 – Clarify Proposed Project In Project Description:**

#### **3. Public Access Deed Restriction.**

- A. The following areas shall be maintained for permanent access and recreational use by the general public in perpetuity: bluff trail and walkway; viewpoints and rest areas; the Vista Point Park; and all common areas of the hotel, including, but not limited to, the lobby, restaurant, coffee shops, grounds, sundeck, spa and fitness center.

The development shall be dedicated to hotel use, available in accordance with standard hotel/motel practice for use by the general public, and that under no circumstances would the development be used for private resort or time-share use which could inhibit or exclude casual use by the general public.

- B. WITHIN SIX (6) MONTHS OF ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT OR WITHIN SUCH ADDITIONAL TIME AS THE EXECUTIVE DIRECTOR MAY GRANT FOR GOOD CAUSE, the permittee shall submit an updated public access map, for the review and approval of the Executive Director, depicting all public access walkways and publicly available common areas at the subject site. The public access walkway system shall include the “proposed new relocated public pathway” shown in the project plans submitted by the permittee on August 15, 2014, as generally depicted on Exhibit No. 3 of the current staff report.
- C. WITHIN SIX (6) MONTHS OF ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT OR WITHIN SUCH ADDITIONAL TIME AS THE EXECUTIVE DIRECTOR MAY GRANT FOR GOOD CAUSE, the permittee shall ~~amend and re-record~~ record an amended and re-stated deed restriction that supersedes and replaces the “Amended and Restated Deed Restriction”, as recorded on July 9, 2013 in Official Records of Orange County (Recorded Document number - 2013000411053), in a form and content acceptable to the Executive Director, which reflects the above restrictions on the development. This amended deed restriction shall include a legal

description and graphic depiction of the permittee's entire parcels and include the updated public access map as an exhibit to the deed restriction. The deed restriction shall run with the land binding all successors and assigns, and shall be recorded free of prior liens, except tax liens, and any encumbrance that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this Coastal Development Permit.

...

**D. Page 14 – Clarify Proposed Project In Project Description:**

Since submittal of the proposed project, the permittee has clarified the proposed project, including the removal of the existing gate at the entrance to the southeast public access walkway at Ritz Carlton Drive. However, final plans have not yet been submitted. Thus, the Commission imposes **Special Condition No. 2**, which requires the permittee to submit final project plans (i.e., site, floors, elevations, cross section, grading, drainage, foundation, etc.) for the Executive Director's review and approval.

...

**E. Page 19 – Clarify Proposed Project In Section B. Public Access:**

The Commission's approval of Coastal Development Permit 5-82-291 in 1982 allowed construction of the existing Ritz Carlton Hotel and associated improvements subject to special conditions that required a public access walkway from Shoreline Drive (now Ritz Carlton Drive) to a public vista park (Vista Point Park) located on the south (seaward) side of the hotel, and required that public areas never be converted to private use. The proposed permit amendment would allow the existing public access walkway to be modified from its current alignment. The permittee is proposing to "*re-record*" the Public Access Plan to include the modified public walkway alignment.

Currently there is an existing unlocked gate at the entrance to the southeast public access walkway at Ritz Carlton Drive. As part of the proposed project, the permittee is proposing to remove that gate. However, no accompanying plans have been submitted. The removal of the gate will enhance public access by eliminating a visual impediment and psychological barrier to the public accessway.

...

**2. CORRESPONDENCE RECEIVED**

On May 11, 2015, Commission staff received a letter of concern regarding the proposed project from Judith Hummer (attached). The letter raises concerns about resort employees utilizing public on-street parking in the residential neighborhood adjacent to the Ritz Carlton Resort. Staff has analyzed the parking supply for the proposed project and has determined that adequate on-site parking exists to serve the proposed project for all days other than the very busiest days of the year. Commission staff has discussed the employee parking issue raised in Judith Hummer's letter with the permittee and learned that the permittee has been working to resolve the issue and are currently in discussions with a nearby school and church to use their parking lots for overflow parking when demand is greatest. The Porte Cochere she questions whether or not was reviewed and approved by the Commission was part of the April 2012 Commission

approval of CDP No. 5-82-291-A4. The development she questions that crosses the property line into the Niguel Shores Community Association is an existing easement for a sewer line. No work is proposed on that sewer line.

Judith Hummer  
P.O. Box 577  
Dana Point, CA 92629  
949-443-1248

RECEIVED  
South Coast Region

MAY 11 2015

CALIFORNIA  
COASTAL COMMISSION

CA Coastal Commission  
200 Oceangate, Suite 100  
Long Beach, CA 90802

RE: application no. 5-82-291-A5

May 8, 2015

Dear Commissioners,

In regards to the Ritz Carlton Hotel expansion plans to be submitted to you for the May 12th meeting I again wish to request that the Hotel review its parking plans.

During the meeting held in Ventura in 2012 I requested a review of the parking plans due to employees parking outside my home. The hotel representative assured me, and told the commissioners after I spoke, that that was not ok and was not to be allowed and that the hotel would double-check the matter and discuss with employees.

Since that time the parking outside my home on Magellan Isle and on Cabrillo has probably doubled. I do not believe that the hotel has sufficient hotel employee parking available. I ask that they consider adding a parking garage level underneath this proposed building and at the same time expand their truck delivery turn-around area. Within the past month I have been woken up several times between midnight and one a.m. from multiple trucks backing up the entire length of the driveway from Ritz Carlton Drive to the loading dock after large events finish during late nighttime hours.

When I first purchased the land in 1996 there was no parking on Magellan and Cabrillo Isles for the hotel. That issue did not begin until sometime around 2005 to 2007. It began slowly with an occasional car parked. Usually on the weekends.

We have a problem in my community of Niguel Shores where friends and family of residents call them and obtain a pass to the neighborhood. Under the CC&R's they are to be accompanied by the resident at all times. But that rule is not being followed. Basically, someone who lives blocks away gives their buddy a pass to park outside my home.

Whenever the hotel has big parties it posts a very large easel outside the main entrance and the parking garage saying, "NO EMPLOYEE PARKING." The result is they shove the employees onto my street by not providing them with a place to park during busy times. In the past year we have endured between 5 to 15 cars at a time

during large parties at the hotel. Many of these cars are hotel employees. Our private streets are becoming overflow free parking for the hotel. With 955 properties in Niguel Shores most people are not affected. Their friend calls, they give them a pass, and they don't even see each other. But those of us right next to the hotel truly are bothered.

I was extremely grateful to the hotel representative at the Ventura Coastal Commission meeting in 2012 when he said after I spoke that hotel employees would not be permitted to park on Magellan or Cabrillo. He said that the hotel parking plan stipulated that they either take public transportation or carpool or be dropped off to work during busy events. I simply ask that they follow through on that procedure.

We have cars parked for entire work shifts. We have recently had one car that was parked for at least 12 hours overnight. We watch the employees in question park their car and walk back and forth to the hotel and their car when their shift ends. I have tried to speak to them. According to them, no hotel management apparently has ever actually told them no. It is a lot to ask of a quiet residential street to also take on the responsibility for hotel employee parking. I even have to pick up trash thrown on my front garden and on the facing slope land.

Will the hotel kindly tend to it's parking problems? Or will the Coastal Commission kindly review whether the hotel parking is actually adequate now? As if it is not even adequate today, how can it possibly be adequate when this large addition will be added without any additional parking spaces planned?

Parking issues are an important part of a large hotel operations. It is necessary to plan effectively for this large planned increase in parking needed due to the large expansion of square footage in hotel rooms, conference, and party space planned. Does the hotel require an increase in parking? If so, please encourage them to add it now to their construction plans.

If these employees now parking on Magellan and Cabrillo Isles are 'visiting' or 'residing' in Niguel Shores...surely they can park at the registered home and walk to work? It is a growing burden on the closest neighbors of this hotel.

Would the hotel please review their parking regulations with their employees, and would they please consider making plans to expand their parking, as it is currently inadequate during large events held at the Ritz Carlton Laguna Niguel. I ask that the California Coastal Commission review this issue.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Judith Hummer". The signature is written in a cursive style with a long horizontal line extending to the right.

Judith Hummer

cc. City of Dana Point  
cc. Niguel Shores Community Association

PS As I review Exhibit No. 2, pages 1 and 2, of the staff report W17.5a, which I just received today, I see a shadow of a Porte Cochere structure, or Colonnade, that was added to the official drawings after the 2009 meeting, never reviewed by the city, and supposed to have been eliminated as incorrect during the 2012 meeting. Perhaps it's inclusion here is just an error?

I am copying the two drawings and highlighting what I am discussing.

That elevated structure would enable a view into our neighborhood and backyards. It also seems to cross the property line with NSCA, which further makes me think its inclusion was an error.



REVISIONS

NO.	DATE	DESCRIPTION
1	08/12/14	ISSUED FOR PERMITS
2	08/12/14	ISSUED FOR PERMITS
3	08/12/14	ISSUED FOR PERMITS
4	08/12/14	ISSUED FOR PERMITS
5	08/12/14	ISSUED FOR PERMITS
6	08/12/14	ISSUED FOR PERMITS
7	08/12/14	ISSUED FOR PERMITS
8	08/12/14	ISSUED FOR PERMITS
9	08/12/14	ISSUED FOR PERMITS
10	08/12/14	ISSUED FOR PERMITS
11	08/12/14	ISSUED FOR PERMITS
12	08/12/14	ISSUED FOR PERMITS
13	08/12/14	ISSUED FOR PERMITS
14	08/12/14	ISSUED FOR PERMITS
15	08/12/14	ISSUED FOR PERMITS
16	08/12/14	ISSUED FOR PERMITS
17	08/12/14	ISSUED FOR PERMITS
18	08/12/14	ISSUED FOR PERMITS
19	08/12/14	ISSUED FOR PERMITS
20	08/12/14	ISSUED FOR PERMITS

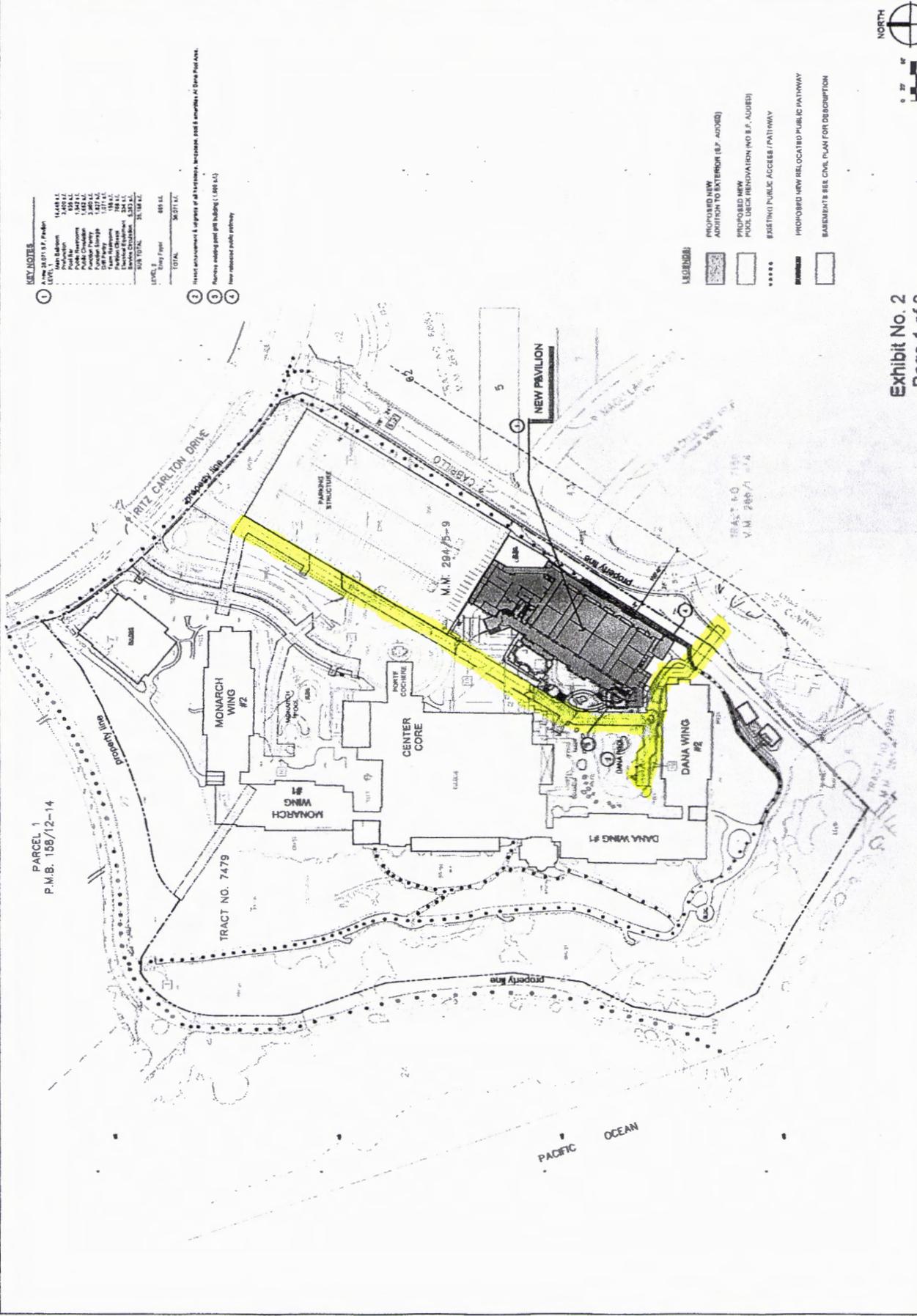
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**Kolinclotmore Architects**  
 ARCHITECT OF RECORD  
 1350 Coronado Avenue  
 Long Beach, CA 90804  
 T (562) 597-8760 F (562) 597-8022  
 www.kolinclotmore.com

**THE RITZ-CARLTON**  
 LAGUNA NIGUEL  
 1 Ritz-Carlton Drive, Dana Point, CA 92629

Page: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Scale: \_\_\_\_\_  
 SHEET NO. \_\_\_\_\_  
 SHEET TOTAL \_\_\_\_\_  
 SITE PLAN

**A1.1b**



1. NEW NOTES

1. New 20' x 20' B.P. Pavilion
2. New 10' x 10' B.P. Pavilion
3. New 10' x 10' B.P. Pavilion
4. New 10' x 10' B.P. Pavilion
5. New 10' x 10' B.P. Pavilion
6. New 10' x 10' B.P. Pavilion
7. New 10' x 10' B.P. Pavilion
8. New 10' x 10' B.P. Pavilion
9. New 10' x 10' B.P. Pavilion
10. New 10' x 10' B.P. Pavilion
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13. New 10' x 10' B.P. Pavilion
14. New 10' x 10' B.P. Pavilion
15. New 10' x 10' B.P. Pavilion
16. New 10' x 10' B.P. Pavilion
17. New 10' x 10' B.P. Pavilion
18. New 10' x 10' B.P. Pavilion
19. New 10' x 10' B.P. Pavilion
20. New 10' x 10' B.P. Pavilion

2. REVISIONS

1. Revised annotations & updates of all footprints, boundaries, pool & amenities at Dana Wing #2.
2. Revised existing pool with building 1 (150' x 40').
3. New relocated public pathway.

- LEGEND:
- PROPOSED NEW ADDITION TO EXTERIOR (B.P. ADDED)
  - PROPOSED NEW PUBLIC DECK (RENOVATION NO B.P. ADDED)
  - EXISTING PUBLIC ACCESS / PATHWAY
  - PROPOSED NEW RELOCATED PUBLIC PATHWAY
  - BARMENT'S SEE CIVIL PLAN FOR DESCRIPTION

Exhibit No. 2  
 Page 1 of 2

PROPOSED SITE PLAN

1/8" = 1'-0"



**CALIFORNIA COASTAL COMMISSION**

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

# W17.5a



Filed:	10/6/14
180 <sup>th</sup> Day:	Waived
270 <sup>th</sup> Day:	7/3/15
Staff:	F. Sy-LB
Staff Report:	5/1/15
Hearing Date:	5/13/15
Commission Action:	

## STAFF REPORT: PERMIT AMENDMENT

**Application No.:** 5-82-291-A5

**Permittee:** SHC Laguna Niguel I, LLC

**Agents:** Kollin Altomare Architects, Attn: Paul Altomare; California Strategies, Attn: Ted Harris; and Truman & Elliot LLP, Attn: Kathleen Truman

**Project Location:** 1 Ritz Carlton Drive, City of Dana Point (Orange County)

**Description of Project Originally Approved:** On June 16, 1982, the Coastal Commission approved CDP No. 5-82-291-(AVCO), which allowed construction of a 397-room resort hotel with two restaurants, meeting rooms, ballroom, pool and deck, public access trail, 672 off-street parking spaces, landscaping and other improvements on a vacant 18.55 acre blufftop lot.

**Description of Amendment:** Remodel and expansion of the existing Ritz Carlton Laguna Niguel hotel by adding a 36,071 square foot meeting and event space; relocating a segment of the existing public access walkway to the bluff and beach; landscape and hardscape work and installing water quality management devices.

**Staff Recommendation:** Approval with conditions

## SUMMARY OF STAFF RECOMMENDATION

Commission staff is recommending **APPROVAL** of the permit amendment for the remodel and expansion of the Ritz-Carlton Hotel that includes a new meeting and event space, relocation of a segment of the existing public access walkway pathway leading to the bluff and beach; including new water quality Best Management Plan (BMP) devices; and installing new pool area hardscape and landscape. The approximately 18.55 acre hotel property is located at 1 Ritz Carlton Drive seaward of Pacific Coast Highway in the northern portion of the City of Dana Point, County of Orange. The property is developed and landscaped, with the hotel and various meeting/banquet facilities and guest amenities. A public access walkway traverses the hotel property leading to a

blufftop walkway, view points and the Vista Point Park on the seaward portion of the site. The proposed amendment involves new development within and along the seaward side of the subject property. The major issues addressed by the current proposal are public access, parking, scenic and visual resources, and water quality.

Since the original submittal of the proposed project, the permittee has provided clarification of the proposed project elements, but the associated project plans have not been submitted. Thus, the Commission imposes a special condition requiring the permittee to submit final project plans. In addition, these plans shall include an access corridor plan that provides detailed plans for the proposed lighting, landscaping, signage and enhanced pavers for the public access walkway that is proposed to be reconstructed.

The proposed new meeting and event space results in a slight modification to the existing public access walkway. The public access walkway would be moved slightly to the east. In order to assure that the permittee constructs and maintains the new public access improvements in perpetuity, the permittee must record a deed restriction with an updated Public Access Plan.

The permittee has proposed to enhance the existing public signage to better inform the public about the public access walkway available at the subject site. However, no accompanying signage plan has been submitted. Thus, the Commission imposes a special condition requiring the permittee to submit a signage program.

To ensure that public access would not be adversely affected during construction of the proposed additional hotel areas, the Commission imposes a special condition that requires the permittee to minimize impacts to public access by agreeing not to obstruct public use of the bluff trail during construction. The relocated portion of the existing public access walkway shall be fully constructed and open to the public prior to closure of the existing portion of the public access walkway that is subject to the proposed realignment.

The Commission routinely imposes special conditions to protect water quality and to ensure that future owners are aware of the special conditions on the project, and those conditions have been imposed on this project.

As conditioned, the proposed amendment and development will conform with the policies of the City of Dana Point certified Local Coastal Program and Sections 30210 and 30211 of the Coastal Act.

**Standard of Review:**

The City of Dana Point Local Coastal Program (LCP), commonly referred to as the “1996” LCP, was effectively certified for the subject area (Monarch Beach) by the Commission under City of Dana Point LCP Amendment 1-96 on November 5, 1997. The LCP amendment certified most of the existing uncertified Monarch Beach LCP segment. The portions of the Land Use, Urban Design, and Conservation/Open Space Elements of the General Plan applicable to Monarch Beach now serve as the certified Land Use Plan (LUP) for Monarch Beach. The portions of the City’s Zoning Code applicable to Monarch Beach now serve as the certified Monarch Beach Implementation Plan (IP). As such, the City now has authority to issue Coastal Development Permits for new projects in the Monarch Beach area. LCP policies 9.69.030 (c)(3)(B) and (D)

specify that the Commission retains jurisdiction over permits originally issued by the Commission, including this permit (CDP No. 5-82-291).

The proposed project affects special conditions of a Commission-issued permit (5-82-291), thereby requiring an amendment to the original permit. Pursuant to Section 30604 (b), the City's certified LCP, commonly referred to as the "1996" LCP, is the standard of review in the current analysis.

Additionally, Section 30604 (c) of the Coastal Act requires that every Coastal Development Permit issued for any development between the nearest public road and the sea shall include a specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. The project site is located between the nearest public road and the sea.

**Procedural Note:**

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

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

The amendment request involves changes to a previously approved resort hotel. The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change and affects conditions required for the purposes of protecting coastal resources or coastal access.

Section 13166 of the Commission Regulations also calls for the Executive Director to reject a permit amendment request if it would lessen the intent of the previously approved permit.

The proposed amendment would not lessen the intended effect of Coastal Development Permit No. 5-82-291 envisioned in the Commission's June 1982 action approving the project with conditions. Therefore, the Executive Director accepted the amendment request.

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### APPENDICES

Appendix 1 – Substantive File Documents

### EXHIBITS

Exhibit No. 1 – Vicinity Map

Exhibit No. 2 – Site Plan and Comparison Site Plan between Amendment A4 and A5

Exhibit No. 3 – Site Plan for the Modified Area of the Existing Public Access Walkway

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit Amendment 5-82-291-A5 pursuant to the staff recommendation.*

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

### Resolution:

*The Commission hereby approves Coastal Development Permit Amendment 5-82-291-A5 for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the certified City of Dana Point Local Coastal Program and the public access and recreation policies of Chapter 3 of the Coastal Act. 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 will substantially lessen any significant adverse impacts of the development on the environment.*

## II. STANDARD CONDITIONS

This permit amendment 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 amendment is granted subject to the following special conditions:

**1. Prior Conditions.** Unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit No. 5-82-291, as amended, remain in effect, with the following exception: To the extent development specifications in any plans approved by the Executive Director pursuant to this permit amendment are inconsistent with specifications listed in any plans approved prior to this amendment, compliance with which was required by the existing permit conditions, those requirements for compliance with those prior plans are hereby modified as necessary, but only to the extent necessary to comply with the Commission's approval of this permit amendment. In addition, all standard and special conditions imposed under Coastal Development Permit No. 5-82-291, as amended, that could apply equally to this amendment, are so applied.

**2. Final Project Plans.**

A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the permittee shall submit, for the Executive Director's review and approval, two (2) full size sets of final project plans (i.e., site, floors, elevations, cross section, grading, drainage, foundation, etc.). The final plans shall be in substantial conformance with the plans received by South Coast District staff on August 15, 2014, except they shall be modified to demonstrate that the proposed development includes the following:

- 1) Access Corridor Plan: This plan shall provide plans for the proposed lighting, landscaping, signage and enhanced pavers for the public access walkway. These plans shall also be consistent the requirements set forth by Special Condition No. 4 and Special Condition No. 10 below.

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 legally required.

**3. Public Access Deed Restriction.**

A. The following areas shall be maintained for permanent access and recreational use by the general public in perpetuity: bluff trail and walkway; viewpoints and rest areas; the Vista Point Park; and all common areas of the hotel, including, but not limited to, the lobby, restaurant, coffee shops, grounds, sundeck, spa and fitness center.

The development shall be dedicated to hotel use, available in accordance with standard hotel/motel practice for use by the general public, and that under no circumstances would the development be used for private resort or time-share use which could inhibit or exclude casual use by the general public.

- B. WITHIN SIX (6) MONTHS OF ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT OR WITHIN SUCH ADDITIONAL TIME AS THE EXECUTIVE DIRECTOR MAY GRANT FOR GOOD CAUSE, the permittee shall submit an updated public access map, for the review and approval of the Executive Director, depicting all public access walkways and publicly available common areas at the subject site. The public access walkway system shall include the “proposed new relocated public pathway” shown in the project plans submitted by the permittee on August 15, 2014, as generally depicted on Exhibit No. 3 of the current staff report.
- C. WITHIN SIX (6) MONTHS OF ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT OR WITHIN SUCH ADDITIONAL TIME AS THE EXECUTIVE DIRECTOR MAY GRANT FOR GOOD CAUSE, the permittee shall amend and re-record the “Amended and Restated Deed Restriction”, as recorded on July 9, 2013 in Official Records of Orange County (Recorded Document number - 2013000411053), in a form and content acceptable to the Executive Director, which reflects the above restrictions on the development. This amended deed restriction shall include a legal description and graphic depiction of the permittee’s entire parcels and include the updated public access map as an exhibit to the deed restriction. The deed restriction shall run with the land binding all successors and assigns, and shall be recorded free of prior liens, except tax liens, and any encumbrance that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this Coastal Development Permit.

**4. Signage Program**

- A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the permittee shall submit for review and approval of the Executive Director, two (2) copies of the signage program, which provides information for all the public access walkway signs at the Ritz Carlton Resort. At a minimum the signage program shall include:
  - 1. The construction materials, the location; the dimensions, and the language on all proposed signs and enhanced pavers; and
  - 2. Revised signage shall include, but not limited to, the signage located at the northwest and southeast public access walkway entrances at Ritz Carlton Drive and along the public access walkaway.
- 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 legally required.

**5. Maintenance of Public Access During Construction.** The construction activities authorized pursuant to Coastal Development Permit Amendment 5-82-291-A5 shall not obstruct public access at the subject site during the peak use season, defined as the period starting the day before the Memorial Day weekend and ending the day after Labor Day of any year. In addition, the permittee shall comply with the following:

- A. At no time shall construction activities associated with the proposed remodel and addition of the hotel obstruct the public's ability to utilize the bluff trail, including view points and rest areas, the Vista Point Park and/or the hotel parking garage. The relocated portion of the existing public access walkway shall be fully constructed and open to the public prior to closure of the existing portion of the public access walkway that is subject to the realignment proposed.
- B. The staging area for construction of the proposed remodel and addition shall not obstruct public access along the adjacent public access walkway.

**6. Construction Staging Plan.**

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT the permittee shall submit for the review and approval of the Executive Director, two (2) full size sets of construction staging plans, which indicates that the construction staging area(s) and construction corridor(s) will minimize public access impacts to the sandy public beach.
  - 1. The plan shall demonstrate that:
    - (a) Construction equipment, materials or activity shall not occur outside the staging area and construction corridor identified on the site plan required by this condition;
    - (b) The construction staging area will gradually be reduced as less materials and equipment are necessary; and
    - (c) Public access through the construction access route will only be intermittently limited for the purpose of the transport of equipment and materials. When not in use for transportation of equipment and materials, it will be made available for undisrupted public access.
  - 2. The plan shall include, at a minimum, the following components:
    - (a) A site plan that depicts:
      - 1. limits of the staging area(s);
      - 2. construction corridor(s);
      - 3. construction site; and
      - 4. location of construction fencing and temporary job trailers with respect to the existing parking lot, day use area and the sandy beach.
- 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 legally required.

**7. Construction Best Management Practices (BMPs)**

- A. The permittee shall comply with the following construction-related requirements:
  - 1. No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
  - 2. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;

3. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
4. Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMP's shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
5. All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

**B.** Best Management Practices (BMP's) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMP's shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:

1. The permittee shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible;
2. The permittee shall develop and implement spill prevention and control measures;
3. The permittee shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50 feet away from a stormdrain, open ditch or surface water; and,
4. The permittee shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

**8. Final Storm Water Pollution Prevention Plan (SWPPP)**

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the permittee shall submit for the review and approval of the Executive Director, two (2) full size sets of final storm water pollution prevention plans (SWPPP) prepared and signed by licensed engineer that, at a minimum, meets the following:

The Storm Water Pollution Prevention Plan must show that permittee is properly prepared to apply site design, source control and treatment control BMP's, appropriate for the potential stormwater pollutants at this site, in order to protect coastal waters from polluted runoff generated by construction activities to the maximum extent practicable.

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 legally required.

**9. Final Water Quality Management Plan (WQMP)**

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the permittee shall submit for the review and approval of the Executive Director, two (2) sets of final water quality management plans (WQMP) for the post-construction project site, prepared and signed by a licensed water quality professional, and shall include plans, descriptions, and supporting calculations. The WQMP shall incorporate structural and non-structural Best Management Practices (BMP's) designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

1. Appropriate structural and non-structural BMP's (site design, source control and treatment control) shall be designed and implemented to minimize water quality impacts to surrounding coastal waters;
2. Impervious surfaces, especially directly connected impervious areas, shall be minimized, and alternative types of pervious pavement shall be used where feasible;
3. Irrigation and the use of fertilizers and other landscaping chemicals shall be minimized;
4. Trash, recycling and other waste containers, as necessary, shall be provided. All waste containers anywhere within the development shall be covered, watertight, and designed to resist scavenging animals;
5. All runoff from the vehicle wash station shall be collected through the proposed wash rack and sand/oil separator and discharged only through the sewer system;
6. Runoff from all roofs, walkways, driveway and parking areas shall be collected and directed through a system of structural BMP's including vegetated areas and/or gravel filter strips or other vegetated or media filter devices. The system of BMP's shall be designed to 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants (including trash, debris and vehicular fluids) through infiltration, filtration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff from the developed site in a non-erosive manner;
7. Post-construction structural BMP's (or suites of BMP's) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMP's, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMP's;
8. All BMP's shall be operated, monitored, and maintained for the life of the project and at a minimum, all structural BMP's shall be inspected, cleaned-out, and where necessary, repaired at the following minimum frequencies: (1) prior to October 15th each year; (2) during each month between October 15<sup>th</sup> and April 15<sup>th</sup> of each year and, (3) at least twice during the dry season;

9. Debris and other water pollutants removed from structural BMP's during clean-out shall be contained and disposed of in a proper manner; and
10. It is the permittee's responsibility to maintain the drainage system and the associated structures and BMP's according to manufacturer's specifications.

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 legally required.

**10. Revised Final Landscape Plan**

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the permittee shall submit, in a form and content acceptable to the Executive Director, two (2) full size sets of revised final landscape plans prepared by an appropriately licensed professional which demonstrates the following:

1. The plans shall demonstrate that:
  - (a) All planting shall provide 90 percent coverage within ninety (90) days and shall be repeated if necessary to provide such coverage;
  - (b) All plantings shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan;
  - (c) All landscaping shall consist of native drought tolerant on-invasive plant species native to coastal Orange County and appropriate to the habitat type. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), 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. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>); and
  - (d) Only water efficient drip type irrigation shall be utilized.
2. The plan shall include, at a minimum, the following components:
  - (a) A map showing the type, size, and location of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features, and
  - (b) a schedule for installation of plants.

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 legally required.

**11. Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the permittee shall submit to the Executive Director for review and approval documentation demonstrating that the permittee has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

## IV. FINDINGS AND DECLARATIONS

### A. PROJECT DESCRIPTION AND BACKGROUND

The subject site (Ritz Carlton Resort) is located at 1 Ritz Carlton Drive seaward of Pacific Coast Highway in the northern portion of the City of Dana Point, County of Orange (Exhibit No. 1). The site is located within the Monarch Beach area of the City, which has a certified Local Coastal Program (LCP). The project site is designated as Visitor/Recreation Commercial (V/RC) in the General Plan Land Use Element (Land Use Plan (LUP) of the LCP) and is zoned as Visitor/Recreation Commercial or V/RC in the Zoning Code (Implementation Plan (IP) of the LCP). The site is bordered to the north by the Salt Creek Beach Park and a portion of the public parking lot area, to the south and west by Salt Creek Beach, and to the east by the residential community of Niguel Shores. The approximately 17.6-acre hotel property is developed and landscaped, with various meeting/banquet facilities and guest amenities. Existing structures on the project site include 393 hotel rooms and suites; a core area consisting of administrative offices, gift and jewelry shops, salon, meeting rooms, and executive offices; recreation facilities consisting of four tennis courts, two pool areas, and landscaped areas, and a split level parking garage. A public access walkway traverses the hotel property, leading to a blufftop walkway, view points and the Vista Point Park on the seaward portion of the site. (The hotel was previously approved under Coastal Commission CDP 5-82-291, as will be discussed on the following page). The proposed amendment involves new development within the subject property.

The currently proposed project and subject of this permit amendment consists of remodel and expansion of the existing Ritz-Carlton Hotel that includes a new meeting and event space, relocation of a segment of the existing public access walkway pathway to the bluff and beach; including new water quality Best Management Plan (BMP) devices; and installing new pool area hardscape and landscape (Exhibits No. 2 and No. 3). More specifically, the proposed project consists of the following:

- 1) **New Meeting and Event Space:** CDP No. 5-82-291-A4 approved a 15,200 square foot meeting space over the hotel loading dock area. The current proposed project eliminates that design that was never constructed and now proposes an addition of a 36,071 square foot, approximately 30-foot tall, two-story, meeting and event space currently occupied by the existing hotel tennis courts in the southeast corner of the hotel property that was only available to hotel guests. The new meeting and event space would be lower in height than a majority of the other hotel structures and would be available for meetings, celebrations and other events to the public. The foundation system for the new meeting an event space will consist of shallow spread footing system.
- 2) **Relocating a Segment of the Existing Vertical Public Access Walkway:** To accommodate the new meeting and event space, the existing public access walkway would be moved slightly towards the east. The permittee proposes to add additional landscaping and lighting along the public access walkway next to the proposed meeting and event space to improve safety at night. All the other existing public access walkways and trails would remain in their current state.
- 3) **Water Quality Management Device:** Installation of two (2) 4-foot x 8-foot water quality retention and treatment devices (bioswales).

- 4) Landscape and Hardscape Improvements to the Existing Dana Pool Courtyard: Replace the existing pool deck paving with new concrete paving in order to create a cohesive space with the new ballroom addition; 2) enhance the pool courtyard facing the guest room patios with raised planters and fire pits; 3) provide new planting areas and renovate existing planting areas with more drought tolerant plant types; and 4) replace existing irrigation with new water efficient drip type irrigation.
- 5) Grading: Grading for the project is proposed to address the over-excavation required for the new building foundation footings. The project would require approximately 6,000 cubic yards of cut, 5,000 cubic yards of fill and 1,000 cubic yards of export to a location outside of the Coastal Zone.

The proposed permit amendment would allow development that would modify the deed restricted “*common areas of the development*” and the public access walkway. At the time of Commission approval of CDP 5-82-291, the project was conditioned to require the provision of permanent public access and recreation use throughout the subject site, including the bluff trail, parks, and hotel commons areas. The current project requires an amendment to the underlying permit because the permittee wishes to update and revise the recorded Public Access Plan. The revised plan would illustrate an adjustment to the alignment of the public walkway. To assure that the permittee constructs and maintains the new public access improvements in perpetuity, the permittee must record a new deed restriction with an updated Public Access Plan.

Since submittal of the proposed project, the permittee has clarified the proposed project. However, final plans have not yet been submitted. Thus, the Commission imposes **Special Condition No. 2**, which requires the permittee to submit final project plans (i.e., site, floors, elevations, cross section, grading, drainage, foundation, etc.) for the Executive Director’s review and approval.

#### Local Approval

The City has a certified Local Coastal Program (LCP); however, the original Coastal Development Permit (CDP 5-82-291) for the Ritz-Carlton Hotel was issued by the California Coastal Commission (CCC) prior to certification of the LCP. As a result, the CCC retains jurisdiction for the original CDP and any amendments thereto.

Prior to processing the CDP amendment with the California Coastal Commission, the City of Dana Point Planning Commission on April 14, 2014 adopted Resolution No. 14-04-14-15 and No. 14-04-14-14 that amended previous approvals (Site Development Permit SDP07-15(I), Variance V07-07, and Conditional Use Permit CUP98-14(M)(II)) and approved the addendum to the original Negative Declaration associated with those previously stated City approvals that needed to be revised to coincide with the currently proposed project. Those approvals were related to the previous permit amendment (A4) that the Commission approved for the subject site in 2012. An appeal of the City’s approval was brought before the City Council regarding noise. The City of Dana Point City Council on May 20, 2014 adopted Resolution No 14-05-20-01 and 14-05-20-02 that upheld the Planning Commission’s approvals. Additional measures regarding noise were included in their approval.

## Past Commission Actions at Subject Site:

## 1) P-79-5539-(AVCO)

On July 23, 1979, the concept of the Ritz Carlton Hotel was initially approved under Coastal Development Permit (CDP) No. P-79-5539 with specific approval of the hotel being granted under CDP No. 5-82-291, discussed below. A special condition of this permit required the applicant to *“submit a deed restriction indicating that this facility [the hotel] and all its associated facilities (including lobby, outdoor areas, trail connecting hotel and beach, bluff-top plaza, etc.) shall be operated as a public hotel facility and not converted to a private resort facility.”*

## 2) Coastal Development Permit 5-82-291-(AVCO)

On June 16, 1982, the Commission approved CDP 5-82-291-(AVCO), which allowed the construction of a 397-room resort hotel with two restaurants, meeting rooms, ballroom, pool and deck, public beach access trail, 672 off-street parking spaces, landscaping and other improvements on a vacant 18.55-acre blufftop parcel. One condition of project approval required the recordation of a deed restriction which insures that the bluff trail, including view points and rest areas, and the Vista Point Park are opened and maintained for permanent access and recreational use by the general public. The deed restriction was also intended to insure that the development would be dedicated to hotel use, available in accordance with standard hotel/motel practice for use by the general public, and that *“under no circumstances will the development be used for private resort or time-share use which could inhibit or exclude casual use by the general public.”* In addition, the permit was conditioned to require the recordation of a deed restriction which insures that public access is maintained to all common areas of the development. These areas were to include, but not be limited to, *“the lobby, restaurants, coffeeshops, grounds and sundeck.”* Also, another condition was imposed that required that prior to issuance of the permit that a binding agreement be executed that required the applicant to construct a 132-unit lower cost visitor accommodations consisting of at a minimum 66-bed youth hostel with the balance in moderate priced motel units. The agreement was to be recorded free of prior liens and as a covenant running with all parcels of issue in this permit. Furthermore, the permittee was required to execute an irrevocable letter of credit in the amount of \$500,000.

## 3) Coastal Development Permit Amendment 5-82-291-A-(AVCO)

On October 29, 1982, the Commission granted Coastal Development Permit Amendment 5-82-291-A to allow a change to the wording of Special Condition No. 5 (Lower Cost Visitor Accommodations) so that *“the covenant can be only on the commercial site and not the on the hotel site; and that the letter of credit be increased to \$548,000.”*

## d) Coastal Development Permit 5-87-220-(Prutel Joint Venture)

On May 12, 1987, the Commission approved CDP 5-87-220-(Prutel Joint Venture), which allowed the construction of a 5,400 square foot storage and engineering building as an addition to the existing parking structure serving the hotel. The approval was conditioned to require the applicant to submit, for the review and approval of the Executive Director, a plan

for the continued implementation of the public access requirements established in CDP No. 5-82-291. As such, the trail and grounds of the resort were to remain open to use by the general public.

4) Coastal Development Permit Amendment 5-82-291-A2 and A-5-DPT-00-467-(SHC Laguna Niguel)

On March 13, 2003, the Commission approved Coastal Development Permit Amendment 5-82-291-A2 and De Novo Coastal Development Permit A-5-DPT-00-467, which allowed demolition of two tennis courts and construction of a three-story 32,276 square foot addition to the Ritz Carlton Hotel for use as a spa facility and the revision of ***Special Condition No. 1 and No. 2*** of Coastal Development Permit No. 5-82-291 to allow 1) realignment of the public access trail and 2) inclusion of a spa facility into what is considered “*common areas of the development.*”

5) Coastal Development Permit Amendment 5-82-291-A3-(SHC Laguna Niguel)

On October 7, 2003, the Commission approved Coastal Development Permit Amendment 5-82-291-A3, which allowed construction of a new 2,651 square foot fitness center and approx. 2,000 square foot roof terrace within the footprint of an outdoor terrace on the seaward side of the existing hotel. The project also involved the construction of a new paved public walkway seaward of the proposed fitness center. The project affected previously imposed ***Special Condition No. 1 and No. 2*** of CDP 5-82-291 because development was proposed which would modify the deed restricted “*common areas of the development*” and the public walkway system. The amendment required the recordation of an updated deed restriction with exhibit depicting the new fitness center, relocated roof terrace and new public walkway.

6) Coastal Development Permit Amendment 5-82-291-A4-(SHC Laguna Niguel)

On April 13, 2012, the Commission approved Coastal Development Permit Amendment 5-82-291-A4, which allowed the remodel and addition of the existing Ritz-Carlton Hotel that consisted of adding approximately 29,796 square feet to be used as meeting space; conversion of the existing meeting space and infill areas into 24 new guestrooms and 2 new casitas, and the enhancement of the hotel’s exterior hardscape, landscape, and pool areas. As a result of the proposed casitas, the project included relocation of a portion of the existing public walkway approximately 18 feet north of its current location. To assure that the permittee constructed and maintained the new public access improvements in perpetuity, the permittee was required to record a deed restriction with an updated Public Access Plan. Consequently, the Commission imposed Special Condition No. 3, which required the permittee to record a public access deed restriction that ensured that the modified public walkway would be maintained open to the public in perpetuity. An updated public access map that depicted all public trails and access areas at the subject site accompanied the deed restriction document. Consequently, access was maintained throughout the Ritz Carlton site, including the bluff trail, the View Point Park, and all common hotel areas (i.e. restaurant, lobby, spa, etc.). Since this CDP’s approval by the Commission, the permittee decided to revise the meeting room component and have thus submitted the current application which includes a revised meeting room design, that also includes a revision of

the public pathway as well and other project elements that will be analyzed in this staff report.

## **B. PUBLIC ACCESS**

### **Local Coastal Program (LCP) Policies: Land Use Plan (LUP)**

#### **Land Use Element (LUE)**

***Land Use Element (LUE) Policy 1.8:** The location and amount of new development should maintain and enhance public access to the coast by facilitating the provision or extension of transit service, providing non-automobile circulation within the development, providing adequate parking facilities or providing substitute means of serving the development with public transportation, and assuring the potential for public transit for high intensity uses. (Coastal Act/30252)*

***Land Use Element (LUE) Policy 4.3:** Public access, which shall be conspicuously posted, and public recreational opportunities, shall be provided to the maximum extent feasible for all the people to the coastal zone area and shoreline consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. (Coastal Act/30210)*

***Land Use Element (LUE) Policy 8.2 (Monarch Beach):** Assure that adequate public recreational areas and public open space are provided and maintained by the developer as part of a new development. (Coastal Act/30210, 30213, 30240, 30251)*

***Land Use Element (LUE) Policy 8.6 (Monarch Beach):** Maximize the provision of public trail and transit loop systems within the Monarch Beach area. The systems shall include access to and along the shoreline and to the visitor-serving and public places within Monarch Beach. (Coastal Act/30210)*

***Land Use Element (LUE) Policy 8.9 (Monarch Beach):** Avoid expansion of the golf course or any other land use that occurs at the expense of environmentally sensitive habitat, public park or public areas. (Coastal Act/30210, 30213, 30240)*

#### **Urban Design Element (UDE)**

***Urban Design Element (UDE) Policy 4.6:** Preserve and maintain existing public accessways, and existing areas open to the public, located within visitor-serving developments in the coastal zone. (Coastal Act/30210, 30212)*

#### **Conservation Open Space Element (COSE)**

***Conservation Open Space Element (COSE) Policy 6.8:** Preserve public access to the coastal areas through easement dedications thereby providing marine-oriented recreational uses so that transportation corridors may augment the City's open space system. (Coastal Act/30210, 30211, 30212)*

## **Local Coastal Program (LCP): Implementation Plan (IP)**

### **Chapter 9.690—Coastal Development Permit**

*9.69.030 (c)(3)(B) and (D) state, in pertinent part:*

*(B) Development authorized by a coastal development permit issued by the Coastal Commission either prior to effective certification of a Local Coastal Program or on appeal after certification remains under the jurisdiction of the Coastal Commission for the purposes of condition compliance, amendment, extension, reconsideration and revocation.*

*(D) Coastal Development Permit P-79-5539*

*Development authorized by Coastal Development Permit P-79-5539, including both development approved on condition that the additional coastal development permit be obtained, and development approved on condition of the submission of additional plans for the review and approval of the Executive Director of the Coastal Commission, remains under the jurisdiction of the Coastal Commission for purposes of condition compliance and amendment. Condition compliance includes both obtaining a coastal development permit from the Coastal Commission for development that was approved on condition that a separate coastal development permit be approved, and obtaining approval from the Executive Director of the Coastal Commission for plans for development that was approved on condition of the submission of final plans. Coastal development permits, or approval of plans by the Executive Director of the Coastal Commission, for development authorized by Coastal Development Permit P-79-5539 shall be obtained from the California Coastal Commission.*

### **Coastal Act Public Access Policies**

Section 30210 of the Coastal Act states, in pertinent part:

*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 30211 of the Coastal Act states, in pertinent part:

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

An element of the proposed project includes the construction of the new meeting and event space located within the resort adjacent to the existing public access walkway. The proposed location of this new building requires that the adjacent existing public access walkway be moved slightly toward the east (Exhibits No. 2 and No. 3). The revised pathway shall be fully constructed prior to any impact that the proposed new meeting and event space would have on the existing public access

walkway. All the other existing public access walkways and trails onsite to the hotel, beach, and the ocean will remain in their current state and will be maintained throughout the construction of the proposed project. The proposed development affects two underlying special conditions of Coastal Development Permit 5-82-291 approved by the Commission in June 1982. As a condition of CDP 5-82-291, both the public trail and the resort grounds are required to remain open to the public in perpetuity. On September 16, 1982, a deed restriction with a “*Public Access Plan*” exhibit was recorded against the property specifying this requirement. Additionally, on May 21, 2004 an updated deed restriction was recorded in association with CDP Amendment 5-82-291-A3. CDP Amendment 5-82-291-A3 required the recordation of an updated deed restriction with exhibit depicting the new fitness center, relocated roof terrace and new public walkway. In addition, an updated deed restriction was recorded with a new exhibit in association with CDP Amendment 5-82-291-A4, which was for the construction of a previously proposed new meeting and event space above the loading docks that was never constructed. That proposal has been revised and is the currently proposed project. The proposed permit amendment requires the recordation of an updated deed restriction concerning the Public Access Plan illustrating the modified alignment of the public access walkway.

The Commission’s approval of Coastal Development Permit 5-82-291 in 1982 allowed construction of the existing Ritz Carlton Hotel and associated improvements subject to special conditions that required a public access walkway from Shoreline Drive (now Ritz Carlton Drive) to a public vista park (Vista Point Park) located on the south (seaward) side of the hotel, and required that public areas never be converted to private use. The proposed permit amendment would allow the existing public access walkway to be modified from its current alignment. The permittee is proposing to “*re-record*” the Public Access Plan to include the modified public walkway alignment.

The Ritz Carlton Resort maintains signage that directs the public to the public access walkway. For example, there is signage directing the public to the public access walkway leading from the Shoreline Drive (now Ritz Carlton Drive) to the public vista park located on the south side of the hotel. Along the public access walkway, there is also additional signage informing the public about the public access walkway. As part of the proposed project, the permittee has proposed to enhance the public signage informing the public about the public access walkway available at the subject site. For example, the permittee states that they would enhance the signage located at Shoreline Drive and along the public access walkway. However, no accompanying signage plan has been submitted.

Besides modifying the existing public access walkway, the project also would install native, drought-tolerant vegetation within planting pockets located in the setback area between the new meeting and event space and the modified public access walkway to improve the public experience and to blend with the existing native vegetation along the nearby bluff slopes. In addition, the existing public access walkway would be enhanced by new lighting. While the permittee has stated that the lighting and landscaping would be installed, final detailed plans have not yet been submitted.

As provided earlier, the City of Dana Point certified LCP contains policies which protect existing public access and recreation opportunities and encourage improvement of such access and recreation opportunities in the Coastal Zone. The LCP also provides policies regarding the processing of Coastal Development Permits. Additionally, Section 30211 of the Coastal Act states

that development shall not interfere with the public's right of access and Section 30210 of the Coastal Act requires that access opportunities be maximized. The Commission imposes Special Conditions 1 through 5 to ensure that continued public access is provided and maintained at the subject site.

As conditioned for recordation of an updated public access map, maintenance of public access during construction, and conformance with the construction staging plan, the Commission finds the project consistent with the public access policies of the City of Dana Point certified LCP and the public access and recreation policies of the Coastal Act.

## **C. PARKING**

### **Local Coastal Program (LCP) Policies: Land Use Plan (LUP)**

#### **Land Use Element (LUE)**

*Land Use Element (LUE) Policy 2.5: Encourage the use of shared parking facilities, such as through parking districts or other mechanisms, in a manner that maintains and, where feasible, improves public access to the coast. (Coastal Act/30212.5, 30252)*

The City of Dana Point certified LCP contains policies requiring adequate parking to be provided to serve new development. An existing shared parking program existed, but it was necessary to amend this program in conjunction with the proposed additions associated with the previous amendment, CDP Amendment 5-82-291-A4. In order to accomplish this, the permittee submitted an updated parking analysis by Kimley-Horn and Associates, Inc. dated November 5, 2008. An addendum to this analysis dated March 24, 2014 was completed to evaluate the proposed parking availability since the existing shared parking program would also need to be amended as well. The proposed development results in a net addition of +3 additional parking spaces (this takes into account the changes from the previous amendment, such as elimination of the previously approved meeting and event space and replacement with the current proposal). The proposed project results in a total parking requirement during peak operations of 840 parking spaces and the current hotel parking supply is 847 parking spaces. Thus, adequate parking to serve the proposed project is being provided.

As proposed by the permittee, the proposed parking would meet the public access protection policies of the City's LCP. Therefore, the Commission finds the proposed project, as conditioned, is consistent with the certified LCP. The proposed project, as conditioned, is also consistent with the public access and recreation policies of the Coastal Act.

## **D. SCENIC AND VISUAL RESOURCES**

### **Local Coastal Program (LCP) Policies: Land Use Plan (LUP)**

#### **Conservation Open Space Element (COSE)**

*Conservation Open Space Element (COSE) Policy 6.4: Preserve and protect the scenic and visual quality of the coastal areas as a resource of public importance as depicted in Figure COS-5, "Scenic Overlooks from Public Lands", of this Element. Permitted development shall be sited and designed to protect public views from identified scenic overlooks on public lands to and along the ocean and scenic coastal areas, to minimize the alteration of natural land*

*forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. (Coastal Act/30251)*

The City's certified LCP requires new development to be designed to protect scenic ocean views and to be consistent with the character of the surrounding area. The proposed project involves construction of a new two-story meeting and event space within the existing hotel that will not exceed the existing height of the hotel. The new meeting and event space would not result in an adverse visual impact from the ocean or park, nor would the project obstruct existing public views of the ocean. As such, the proposed project would not adversely affect existing public coastal views. Additionally, the new development is designed to continue the architectural theme of the Ritz Carlton hotel and would not adversely affect the surrounding environment.

As proposed by the permittee, the proposed project would meet the scenic and visual resource protection policies of the City's LCP. Therefore, the Commission finds the proposed project consistent with the certified LCP with regard to protection of scenic and visual resources.

## **E. WATER QUALITY**

### **Local Coastal Program (LCP) Policies: Land Use Plan (LUP)**

#### **Conservation Open Space Element (COSE)**

***Conservation Open Space Element (COSE) Policy 1.3:** Conserve imported water by providing water conservation techniques, and using reclaimed water, water conserving appliances, and drought-resistant landscaping when feasible.*

***Conservation Open Space Element (COSE) Policy 1.7:** Maintain and, where feasible, restore the biological productivity and the quality of coastal waters, creeks, and groundwater, appropriate to maintain optimum populations of marine organisms and to protect human health. Measures including, but not limited to, minimizing the adverse effects of waste water discharges, controlling runoff, preventing the depletion of groundwater supplies, preventing substantial interference with surface water flow, maintaining vegetation buffer areas protecting riparian habitats, minimizing alteration of natural streams, and street sweeping, shall be encouraged. (Coastal Act/30231)*

The City of Dana Point LCP requires new development to meet specific water quality standards. As new development may potentially impact water quality through construction activities and post-construction stormwater runoff, the Commission must ensure that appropriate measures are taken to maintain and enhance water quality to the maximum extent feasible, consistent with the certified LCP. The proposed project involves new construction on a blufftop property between the first public road and the sea.

#### **Construction Impacts to Water Quality**

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water

column. In order to avoid adverse construction-related impacts upon marine resources, **Special Condition No. 7** outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris.

In order to address water quality impacts during construction, the permittee has submitted an updated Storm Water Prevention Plan (SWPPP) map and a copy of the cover of the previous Storm Water Prevention Plan (SWPPP) prepared for the previous amendment (A4) approved by the Commission in 2012, that reads: “*Storm Water Pollution Prevention Plan (SWPPP)* prepared by Psomas dated December 13, 2011, Amended September 30, 2014 to update SWPPP Exhibit”. While the permittee has provided these materials, the permittee acknowledges that an updated SWPPP still needs to be completed. Therefore, it is necessary to impose **Special Condition No. 8** which requires the permittee to submit a Storm Water Pollution Prevention Plan (SWPPP)

#### Post-Construction Impacts to Water Quality

In order to address the post construction water quality impacts, the permittee has proposed the installation of two (2) 4-foot x 8-foot water quality retention and treatment devices (bioswales). The permittee has also submitted an updated Water Quality Management Plan (WQMP) map and a copy of the cover of the previous Water Quality Management Plan (WQMP) prepared for the previous amendment (A4) approved by the Commission in 2012, that reads: “*Water Quality Management Plan (WQMP)* prepared by Psomas dated January 27, 2014 (Revised April 10, 2014), Amended September 30, 2014 to update SWPPP Exhibit”. While the permittee has provided these materials, the permittee acknowledges that an updated WQMP still needs to be completed. Therefore, it is necessary to impose **Special Condition No. 9** which requires the permittee to submit a Water Quality Management Plan (WQMP).

The permittee has stated that landscaping is proposed and plans have been submitted. The placement of any vegetation that is considered to be invasive which could supplant native vegetation should not be allowed. Invasive plants have the potential to overcome native plants and spread quickly. Invasive plants are generally those identified by the California Invasive Plant Council (<http://www.cal-ipc.org/>) and California Native Plant Society ([www.CNPS.org](http://www.CNPS.org)) in their publications. Furthermore, any plants in the landscape plan should only be drought tolerant to minimize the use of water (and preferably native to coastal Orange County), thereby minimizing the amount of water introduced into the bluff top. The term drought tolerant is equivalent to the terms 'low water use' and 'ultra low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>. Water onsite can also be reduced by limiting permanent irrigation systems and using only water efficient drip type irrigation. Drought resistant plantings and minimal irrigation encourage root penetration which increases bluff stability.

Commission staff has reviewed the submitted Landscaping Plan and determined the following were not drought tolerant: *Iris Douglasiana* (Douglas Iris), *Muhlenbergia Capillaris* (Pink Muhlygrass), *Tulbaghia Violacea* (Society Garlic) and *Bigonia Capreolata* (Tangerine Beauty). In addition, the following has been determined to be invasive: *Achillea Millefolium* (Common Yarrow). Therefore, the Commission imposes **Special Condition No. 10**, which requires the permittee to submit a revised final landscaping plan, which consists of native or non-native drought tolerant plants, which

are non-invasive. Therefore, as conditioned, the Commission finds that the proposed project is consistent with the water quality policies of the certified LCP.

#### **F. DEED RESTRICTION**

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition No. 11**, which requires the property owner record a deed restriction against the property, referencing all of the above special conditions of this permit amendment and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit amendment ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

#### **G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096(a) of the Commission's administrative 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.

The proposed project is located within an existing resort facility. Development already exists on the subject site. In addition, the proposed development has been conditioned, as follows, to assure the proposed project is consistent with policies of the certified LCP and the Coastal Act: **1)** retention of the special conditions of the underlying permit (CDP 5-82-291, as amended) not affected by the current action; **2)** submittal of final project plans and an access corridor plan; **3)** recordation of an updated deed restriction with Public Access Map to reflect new development; **4)** maintenance of public access during construction; **5)** submittal of a signage program; **6)** submittal of construction staging plans; **7)** construction best management practices (BMPs); **8)** submittal of final storm water pollution prevention plans (SWPPP); **9)** submittal of final water quality management plans (WQMP); **10)** submittal of revised final landscape plans; and **11)** recordation of a deed restriction against the property. As conditioned, no feasible alternatives or feasible mitigation measures are known, beyond those required, which would substantially lessen any identified significant effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with CEQA.

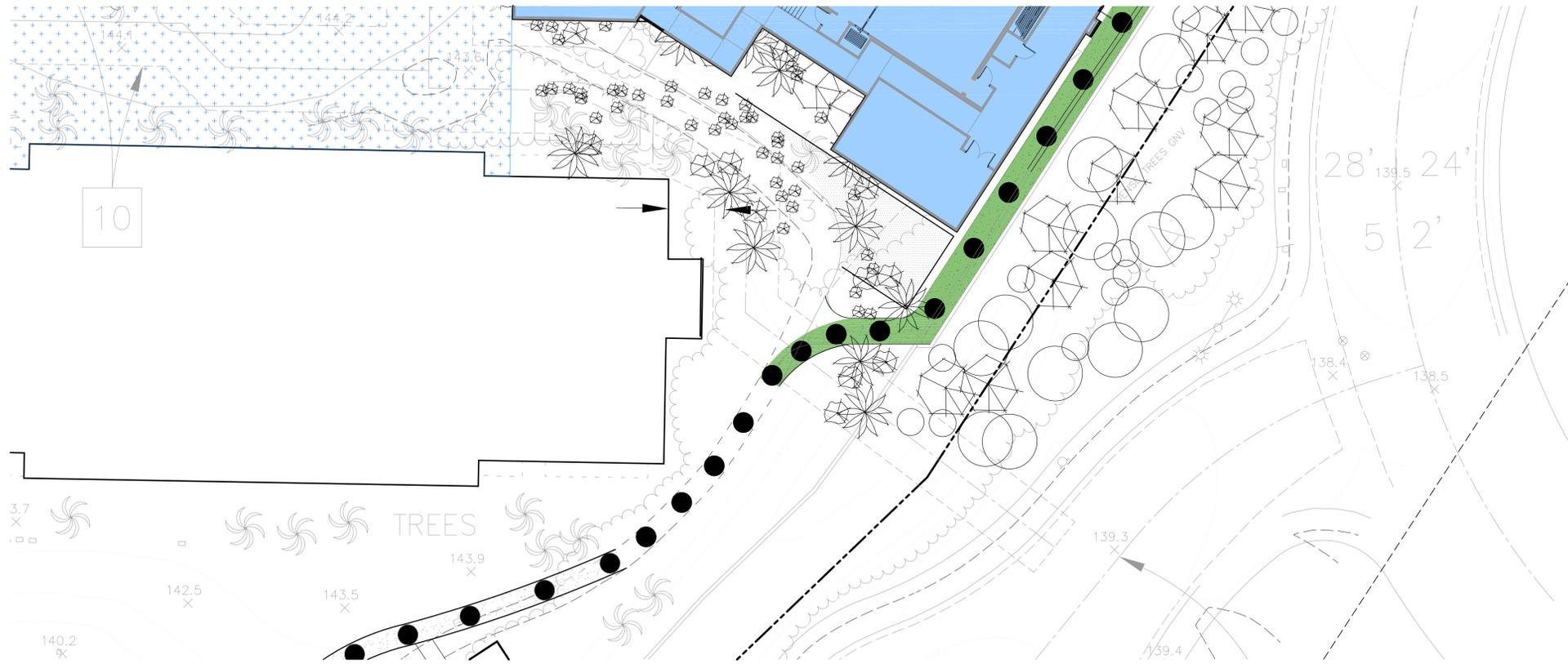
## APPENDIX 1

**SUBSTANTIVE FILE DOCUMENTS:** City of Dana Point Local Coastal Program (LCP); City of Dana Point City Council Resolution No. 14-05-20-01 and No. 14-05-20-02 dated May 20, 2014; City of Dana Point Planning Commission Resolution No. 14-14-04-14-14 and No. 14-04-14-15 dated April 14, 2014; Addendum to the adopted Negative Declaration for Site Development Permit SDP07-15(I), Variance V07-07, and Conditional Use Permit CUP98-14(M)(II); Approval-in-Concept from the City of Dana Point dated August 11, 2014; Coastal Development Permit No. P-79-5539-(AVCO); Coastal Development Permit No. 5-82-291-(AVCO); Coastal Development Permit No. 5-82-291-A-(AVCO); Coastal Development Permit No. 5-82-291-A2-(SHC I Laguna Niguel, LLC); Coastal Development Permit No. 5-82-291-A3-(SHC Laguna Niguel I, LLC); Coastal Development Permit No. 5-82-291-A4-(SHC Laguna Niguel I LLC); Coastal Development Permit No. 5-87-220-(Prutel Joint Venture); Ritz-Carlton Laguna Niguel Analysis of Shared Parking Requirements for the Proposed Hotel Expansion prepared Kimley-Horn and Associates, Inc. dated March 24, 2014; *Water Quality Management Plan (WQMP)* prepared by Psomas dated January 27, 2014 (Revised April 10, 2014), Amended September 30, 2014 to update SWPPP Exhibit; *Storm Water Pollution Prevention Plan (SWPPP)* prepared by Psomas dated December 13, 2011, Amended September 30, 2014 to update SWPPP Exhibit; Letter from Strategic Hotels & Resorts to Commission staff dated August 5, 2014; Letter California Strategies to Commission staff dated August 28, 2014; Letter from Commission staff to California Strategies, LLC dated September 12, 2014; and Letter from Kollin Altomare Architects to Commission staff dated October 3, 2014.









LEGENDS:

- PROPOSED NEW ADDITION TO EXTERIOR (S.F. ADDED)
- PROPOSED NEW POOL DECK RENOVATION (NO S.F. ADDED)
- EXISTING PUBLIC ACCESS / PATHWAY
- PROPOSED NEW RELOCATED PUBLIC PATHWAY



REVISIONS	
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PROPOSED PUBLIC BEACH ACCESS PATH

1/16" = 1'-0" 1



EXISTING PUBLIC BEACH ACCESS PATH

Exhibit No. 3  
Page 1 of 1

1/16" = 1'-0" 2

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Project:  
 Job Number: 2013-18  
 Date: 08-04-2014  
 Issued for:  
 CALIFORNIA COASTAL COMMISSION  
 Sheet Name:  
 ENLARGED SITE PLAN  
 Sheet Number:

**ADD.**

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