

CALIFORNIA COASTAL COMMISSION

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

Th9f

October 5, 2011

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SECOND ADDENDUM

TO: Commissioners and Interested Persons

FROM: South Coast District Staff

SUBJECT: Application No. 5-11-068 (Shea Homes), Item No. Th 9f, Scheduled for hearing on Thursday, October 6, 2011 in Huntington Beach.

- **SITE DEWATERING CONCERNS**

In a letter from the Bolsa Chica Land Trust, dated September 29, 2011, concerns have been expressed that the dewatering proposed as part of the subject project may endanger existing nearby development. The concern is that as the subject site is dewatered, the groundwater levels could drop not only at the subject site, but under the existing residential development immediately north of the site, and that this drop in groundwater level could result in settlement of the existing development in the surrounding area.

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, staff believes an additional special condition specifically addressing groundwater and subsidence monitoring is appropriate. Although adverse impacts to adjacent properties are not expected from the proposed project, by imposing this special condition, an additional level of review will be in place and triggers can be put in place so that, in the event of unanticipated results from site dewatering, they will be addressed prior to impacts. Staff is recommending the following special condition be added (on page 31 of the staff report):

26. Groundwater and Subsidence Monitoring and Mitigation

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 has occurred along the northern property line or to -19 feet MSL 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 undertaken in conjunction with the proposed development 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 drawdown and/or subsidence thresholds are met, and the applicant shall submit the plan to the Executive Director as a request for an amendment to this coastal development permit, and obtain all required Coastal Act authorizations, before implementing the mitigation plan. 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.

In support of the additional special condition above, add the following language to the staff report findings on page 89 (language to be added shown in **bold, italic, underlined** text):

...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. In addition, a monitoring program will be in place to detect any settlement that occurs, allowing time to implement off-setting measures as needed. It should be noted that the reduced residential footprint compared to the area originally proposed via the original LCP amendment and related previous coastal development permit for the subject site, correspondingly reduces the area of necessary overexcavation/recompaction and of dewatering.

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. Although adverse impacts to adjacent properties are not expected from the proposed project, by imposing this special condition, an additional level of review will be in place, and triggers can be put in place so that, in the event of unanticipated results from site dewatering, 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 has occurred along the northern property line or to -19 feet MSL 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.

- **SITE FLOODING CONCERNS**

Concerns also have been raised that the level of flood protection that would result from the proposed project's flood control measures is overstated. More specifically, concern has been raised that the Conditional Letter of Map Revision (CLOMR) issued by Federal Emergency Management Agency (FEMA) related to the proposed project has expired and is no longer effective. In addition, concern has been raised that the 2009 FEMA Flood Insurance Rate Map (FIRM) does not reflect any change to the inland flood hazard area that the project purportedly would protect.

However, the future improved flood protection resulting from the project would not be reflected in the FEMA documents until the proposed flood protections are actually constructed. FEMA bases its maps upon the actual conditions that exist, not upon anticipated future change. FEMA will modify the Flood Insurance Rate Map (FIRM) upon the completion of the flood control measures proposed at the site. Since the actions have not been completed (since a coastal development permit has yet to be acted on), there is no basis for FEMA to change the flood maps at this time.

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 (CLOMR) does not revise an effective National Flood Insurance Program (NFIP) map, but rather indicates whether the project, if built as proposed, would be recognized by FEMA. The existence of the CLOMR would not have changed the 2009 flood maps, regardless of the input data and likewise, the 2009 maps would not invalidate the CLOMR. (www.fema.gov/plan/prevent/floodplain/nfipkeywords/clomr.shtm)

Thus, the concerns expressed regarding FEMA's acceptance of the flood protection that will be provided by the project once constructed, are based on misunderstanding of the role of the CLOMR and the FIRM. Staff does not believe any changes to the staff report and recommendation are necessary.

- **LETTER FROM SHEA HOMES RESPONDING TO BOLSA CHICA LAND TRUST LETTER DATED 9/29/2011, ATTACHED.**

SheaHomes

Caring since 1881

October 4, 2011

Mary K. Shallenberger, Chair, and Commissioners
California Coastal Commission
200 OceanGate, 10th Floor
Long Beach, CA 90802-4416

TH-9F

A copy of this letter has been
provided to Coastal Staff and
all Commissioners.

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

Dear Chair Shallenberger and members of the Commission,

The purpose of this letter is to respond to the comments and claims made in the September 29, 2011 letter from the Bolsa Chica Land Trust (BCLT) to the Commission, which we received yesterday, October 3. As has been the BCLT's practice throughout our nine-year Coastal review process, they have once again submitted a large volume of paper immediately before a hearing, raising allegedly new issues. As this letter will show, none of the issues justify the BCLT's requested delay of approval of Parkside Estates.

In this letter, we address three of the issues raised in the BCLT letter:

1. "Unpermitted" Development Resolved by Compliance with Certified LUP

The Commission resolved any allegations of "unpermitted" development in 2007 by imposing Suggested Modification 11 (May 20, 2008 Adopted Findings), which requires wetland and ESHA areas on the property be protected in the manner required in the certified LUP. Furthermore, special conditions 1, 2 and 12 of the CDP implement this suggested modification by establishing the land use and plant palette, and requiring the dedication and maintenance of these areas in perpetuity for wetlands, ESHA and associated buffers. Therefore, there is no validity to BCLT's argument.

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Shea Homes Limited Partnership &
Shea Homes Marketing Company
Independent member of the Shea family of companies

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2. Site Dewatering Thoroughly Evaluated by Staff's Professional Geologist and Engineer

BCLT alleges the Commission has not adequately analyzed our proposed dewatering operations; this is not true. Groundwater conditions at the site have been studied for 12 years and Parkside has commissioned at least 12 reports which address groundwater, settlement and potential impacts to surrounding properties; 11 of these reports are cited on pgs. 28 and 29 of the staff report. All of this information was reviewed by your staff geologist and civil engineer, who concluded our plan effectively addresses dewatering- and settlement- related issues, as reflected in the LCPA staff report.

On pages 88 and 89, the current staff report describes the dewatering process and the protections that are in place to address concerns about settlement in neighboring properties:

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 [on the site] since 1999. The PSF 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." [emphasis added]

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. In addition, a monitoring program will be in place to detect any settlement that occurs, allowing time to implement off-setting measures as needed. [emphasis added]

BCLT's allegations are erroneous because they misstate the depth of dewatering (55 feet vs. the actual no more than 19 feet), and the physics of dewatering, i.e., draw-downs of less than the historic draw-down do not create additional settlement. They misstate the process, assuming the excavated soil will be moved from the site, while it will not.

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Further, the Hushmand and Associates, Inc. ("HAI") report cited in the BCLT letter provides no new information relative to Parkside Estates, as it did not evaluate the development on Parkside Estates. In the attached letter to the Commission dated October 4, 2011, Hushmand and Associates vice president S. Ali Bastani, PhD, PE, stated the BCLT letter is "in conflict with the intent" of the Hushmand report, and further:

"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."

While HAI did not study potential development of the Parkside Estates property, the studies conducted by Pacific Soils Engineering, Hunsaker & Associates, LSA Associates and Alta California Geotechnical were specific to the development of the Parkside site and were considered by the Commission previously. Therefore, BCLT's argument regarding dewatering has no merit.

3. Shea CLOMR is Current and Valid

For many years, BCLT has attempted to deny the fact that upon completion of the required Parkside Estates flood protection infrastructure and its certification, FEMA will issue a new Flood Insurance Rate Map (FIRM) that will relieve thousands of Huntington Beach residents of mandatory flood insurance premiums. Following issuance of the most recent BCLT letter, we contacted FEMA and received a written email response from FEMA's map specialist on October 4, 2011, which states:

A new CLOMR may be required if the December 3, 2009, FIRM included revised hydrologic and/or hydraulic information for the Special Flood Hazard Area (SFHA) included in the CLOMR. **If the new FIRM has no revised hydrologic and/or hydraulic information for the SFHA in the CLOMR, then the CLOMR is still valid.** [emphasis added]

This is what the statement means: A new Conditional Letter of Map Revision may be required of Shea Homes **if – and only if –** the County of Orange's Flood Insurance Rate Map included revised information for the area addressed in the Shea Homes' Conditional Letter of Map Revision. But it did not, so **the Shea Homes Conditional Letter of Map Revision is still valid.**

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The "new" flood insurance rate maps for the Parkside area have been misunderstood by BCLT and are, in fact, no more than FEMA's maps from 2000 brought into digital format. Our mapping is based on new hydraulic modeling in 2002, showing the effect our required flood control improvements would have on the existing map. There have been no subsequent hydraulic model revisions submitted to FEMA; therefore, our CLOMR remains in effect. The FIRM maps cited by BCLT are not based on revised floodplain data. If they were, the city's mayor and the Orange County Board of Supervisors would have been notified in writing, as they were in 2000, but that has not occurred. Therefore, the maps cited by BCLT cannot and do not supersede ours, and this BCLT effort to confuse the Commission has no merit.

We apologize for the late submittal of this clarification, but we prepared it as quickly as we could following the public posting of BCLT's very late comment on our CDP application.

Sincerely,
Shea Homes LP



Ron Metzler

Attachment

cc: Meg Vaughn
Teresa Henry
Lesley Fwing, PE
Mark Johnsson, PhD

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 Baslani, PhD, PE, GE 2458
Vice President, Principal Engineer

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

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October 4, 2011

TO: Commissioners and Interested Persons

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FROM: South Coast District Staff

SUBJECT: Application No. 5-11-068 (Shea Homes), Item No. Th 9f, Scheduled for hearing on Thursday October 6, 2011 in Huntington Beach.

A. Exhibit 20 – Known Archaeological Resources in the Project Vicinity

Exhibit 20 is referenced in the staff report but was not attached to the staff report at the time it was made public. Attached is Exhibit 20 regarding known archaeological resources within the project vicinity.

B. Appendix A – Substantive File Documents

Appendix A – *Substantive File Documents* was not attached to the staff report at the time it was made public. Appendix A is attached hereto.

C. Exhibit 6

The Exhibit 6, Figure 4-1 from the Habitat Management Plan, that was attached to the staff report is not the most current version of that figure. Therefore, the Exhibit should be replaced with the most recent version (September 2011) of Figure 4-1 of the HMP. The most recent version is attached herein as revised Exhibit 6.

D. Changes to Special Conditions/Supporting Changes to Findings

Make changes to the following Special Conditions and changes to the findings as noted below (added language shown in **bold, italic, underlined text**, language to be deleted shown in **~~bold, italic, strike-through~~**):

Special Condition No. 2 Habitat Management Plan:

1. On page 5, under Item C, regarding uses allowed within Open Space Conservation/Coastal Conservation areas, add the following language to the table:

Lot No.	Use	Area (acres)	Maintained By
Lot S TTM 15377	Passive Park	0.57 acres	HOA <u>and City</u>

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Supporting addition to findings:

On page 47, under the heading E. Public Access, and subheadings 1. Public Parks, a) Passive Park (Lot S), add the following language to the findings:

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 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.

2. On page 6, in Subsection D of Special Condition No. 2, make the following changes:

- D. All planting described in the approved Habitat Management Plan shall be complete prior to **issuance of any certificate of occupancy for any residence** ~~commencement of construction of any residence or model home~~. 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).

Special Condition No. 3 Public Amenities & Trail Management Plan:

3. On pages 6, 7 and 8, under Item A, regarding public amenities and uses, make the following changes to the table:

Lot No.	Use	Dedicated to	Maintained by	Conveyed via	Area (acres)
Lot A TTM 15377	Active Park	City in fee	HOA <u>and City</u>	Offer to Dedicate (OTD) in fee to City; dedication on tract map	1 acre
C TTM 15377	(1) Sidewalk <u>& Landscaping,</u> (2) Public	(1)HOA in fee (2) OTD	(1)HOA <u>and City</u> (2)HOA	CC&Rs; dedication on tract	

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	trail/access/ <u>landscaping</u>	easement to the City		map (2) OTD; dedication on trail map	
S TTM 15377	Passive Park	City in fee	HOA <u>and</u> <u>City</u>	OTD to City in fee; Dedication on tract map	0.6 Acre

Supporting addition to findings:

On page 48, under the heading E. Public Access, and subheadings 1. Public Parks, b) Active Park (Lot A), add the following language to the findings:

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.

4. On page 9, Item B4, regarding public access signage size, delete B4 as it currently appears in the staff report and replace it with new B4 below:

4. **~~Signage plans shall depict the size of the sign face (minimum 2.5 feet by 2.5 feet), size of the letters on the sign (minimum 3-inch high lettering), overall height of the sign, and the method~~**

~~of posting (i.e. attached to free standing post, attached to gate, attached to trail fence, etc.).~~

- 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.**

Supporting changes to findings:

On page 53, under the heading E. Public Access, and subheading 9. Public Access – Special Conditions, make the following changes to the findings:

In addition to the special condition requiring a public restroom within the active park at the subject site, 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 ~~proposed~~ 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. larger, In addition, the signage plan should ensure that public access signs are** more numerous, contain enough information and ~~that~~ 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, a special condition 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.

5. On page 10, under Item L, make the following change:

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.**

Supporting changes to findings:

On page 48, under the heading E. Public Access, and subheading 2. Trails, make the following changes to the findings:

2. Trails

The proposed project includes a number of public trails, described in greater detail below. The active park (Lot A), 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 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 3 feet wide, meandering within the dedicated 10 foot wide public trail easement.**

Special Condition No. 5 Public Access and Recreation Requirements and Improvements

6. On page 13, in Subsection C, make the following change:

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, ~~and~~ public access signage, **and public restroom facilities**.

Special Condition No. 7 Development Phasing

7. On page 14, in Subsections A.2, A.3, and Subsection B make the following changes:

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, **shall be completed (including the installation of habitat protection fencing pursuant to the approved final Habitat Management Plan) prior to the commencement of construction of any residences, including model homes.** ~~T~~, 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 opening of the first model home for public viewing.** 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 commencement of construction of any residence or model home.**
- 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.

Explanation for change to special condition: The requirement to construct and implement the Public Amenities & Trail Management Plan prior to construction of any residence or model home is overly restrictive. The City's certified Land Use Plan requires that public amenities be constructed prior to or concurrent with the private portions of a proposed development. The special condition as written would be more restrictive than required by the LUP policy. There are a number of other restrictions on the timing of construction of some of the public amenities that are within or adjacent to the habitat restoration area, such as limits during the nesting/breeding season and limits as to when planting can occur, as well as weather conditions. With a relatively limited window of opportunity for conducting the proposed construction, both the private portion of the development and the public portions, requiring that the Public Amenities & Trail Management Plan be constructed prior to issuance of the certificate of occupancy for the first residence will assure timely construction and implementation of the proposed public amenities. However, no changes to the findings are needed.

With regard to public access during construction, the applicant has identified how public access will continue to be provided during construction of the proposed development. Exhibit 12 of the staff report reflects the applicant's proposal to allow public access across the site during construction. However, this aspect of the proposed development was inadvertently left out of the staff report at the time it was made public. In order to assure that public access remains viable during project construction, and consistent with the applicant's proposal, the additional language should be added to Special Condition No. 7 Development Phasing. In addition, the findings following the revised special condition (below) should be added in support of the recommended change to Special Condition No. 7.

Supporting changes to findings:

Add the following findings to the staff report on page 54, under the heading E. Public Access, and subheading 9. Public Access – Special Conditions, after the first paragraph:

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 requirement to maximize public access, a special condition is imposed which requires the applicant to carry out interim public access during construction as proposed.

Special Condition No. 8 Protection of Potential Archaeological Resources During Grading

8. On pages 15, 16, and 17 revise Item Nos. A and B as follows (added language shown in **bold, italic, underlined text**; language to be deleted shown in ~~**bold, italic, strike-through**~~):
 - 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 an MLD be involved)**, 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 ~~other artifacts~~ **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 ~~other artifacts~~ **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 ~~other artifacts~~ **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.

Explanation for change to special condition: The additional language regarding the Native American most likely descendent (MLD) is added in Subsection A2 because State Law concerning Native American archaeological resources to require the Native American Heritage Commission does not always identify a most likely descendent, and so requiring that an MLD be provided with a copy of the approved archaeological monitoring and mitigation plan would not be feasible. The replacement of the term “artifact” with “feature” is suggested because “feature” is understood to be a broader term, thereby more protective of archaeological/cultural resources. All terms will be specifically defined in the required archeological monitoring and mitigation plan. The language added in Subsection A3 simply completes a sentence that was inadvertently left unfinished.

Special Condition No. 10 Revisions to Tentative Tract Map 15377

9. On pages 20 and 21, revise Special Condition No. 10 as follows:

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:

No Changes to Sections A through I.

Add the following new Sections:

- 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.**

Explanation for change to special condition: These changes are intended to make clear that the required changes to the tentative tract maps do not require that the process be re-started with the local government, but rather that the local government review them for conformance with their standards through the *approval in concept* process. In addition, the addition of new subsection J and K are intended to avoid issues arising from recordation of a tract map that doesn't meet the requirements of the special conditions and to assure that the Commission has a copy of the approved final maps.

Special Condition No. 11 Offer to Dedicate in Fee for Habitat, Public Infrastructure, and Public Access & Recreation Purposes

10. On page 22, make the following correction to Special Condition No. 10 as follows:

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

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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 & ~~WP~~ **AP** wetland areas) for wetland and habitat creation and restoration as approved by this permit;
- 8) TTM 15377 Lot AA (ESHA 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 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

Explanation for change to special condition: This change corrects a typo.

Special Condition No. 18 Water Quality Management Plan

11. On page 28, make the following correction to Section B of Special Condition No. 18 as follows:

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 ~~occur~~ **be made** upon completion of construction by the permittee of the Natural Treatment System and prior to occupancy of any proposed project residence.

Explanation for change to special condition: The intended requirement was to assure that the offer of dedication was made, not that the acceptance occur prior to occupancy of any proposed residence.

E. Changes to Findings: Corrections/Clarifications

The staff report contained some relatively minor errors that require correction and/or clarification. Consequently it is necessary to make the following corrections and/or clarifications to the findings as noted below (language to be added is shown in **bold, italic, underline**; language to be deleted is shown in ~~**bold, italic, strike through**~~):

1. On page 32, in the first paragraph under the heading A. Project Description, make the following correction:

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 ~~6282~~ **11,742** square feet. The sizes of the proposed residences range from 3109 square feet to 3704 square feet **(see exhibit 19)**.

2. In the table that begins at the bottom of page 33 and continues on to page 36, make the following corrections:

On page 34:

Lot No.	Use	Dedicated to	Maintained By	Conveyed via	Area (acres)
A TTM 15377	Active Park	City in fee	HOA <u>and City</u>	Offer to Dedicate (OTD) in fee to City; dedication on tract map	1 Acre
C TTM 15377	(1) Sidewalk & landscaping ; (2) Public trail/access	(1) HOA in fee (2) OTD easement to the City	(1) HOA <u>and City</u> (2) HOA	CC&Rs; dedication on tract map	

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	path/ <u>landscaping</u>			(2) OTD; dedication on trail map	
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On page 35:

S TTM 15377	Passive Park	City in fee	HOA <u>and</u> <u>City</u>	<u>Offer to</u> <u>Dedicate</u> <u>in fee to</u> <u>City;</u> Dedication on tract map	0.6 Acre
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X TTM 15377	NTS	City in fee	City	<u>Offer to</u> <u>Dedicate</u> <u>in fee to</u> <u>City;</u> Dedication on tract map	
Y TTM 15377	VFPF	County in fee	County	<u>Offer to</u> <u>Dedicate</u> <u>in fee to</u> <u>County;</u> Dedication on tract map	

3. In the findings near the top of page 37, under the heading A. Project Description, subheading 1. Subdivision, in the first paragraph, make the following correction:

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 VFPF (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.

4. Also on page 37, in the paragraph under the heading A. Project Description, subheading 2. Residences, make the following correction:

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

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square feet to ~~6282~~ 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)

5. On page 38, under the heading C. Project Location, Site Description & History, in the last sentence at the bottom of the page, make the following correction:

However, the site has not been farmed since approximately late 2010 ~~2007~~.

6. On page 39, under the heading C. Project Location, Site Description & History, in the first full paragraph, delete the following sentence which is inaccurate:

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 ~~[such unpermitted activities occurred prior to the current applicant's ownership]~~. 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.

7. On page 61, in the last sentence of the second to the last paragraph, under the heading F. Wetlands, ESHA, & Habitat, subheading 3. Habitat Management Plan, make the following

The plan is described in the document titled Habitat Management Plan, Parkside Estates, prepared by LSA, dated September 2011 ~~XXXXX~~.

8. On page 62, under the heading F. Wetlands, ESHA, & Habitat, subheading 3. Habitat Management Plan, in the first full paragraph, make the following clarifying change:

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 VFPF 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).

9. Page 77, Section G. Cultural Resources, Previous Archaeological Investigations on the Project Site, CA-ORA-83 subsection, first full paragraph, modify the sixth sentence to read:

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.**

10. Page 77, Section G. Cultural Resources, Previous Archaeological Investigations on the Project Site, CA-ORA-83 subsection, first full paragraph, add the following at the end of the paragraph:

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.

11. On page 88, in the first paragraph under the heading H. Hazard, subheading 2. Liquefaction/Dewatering, make the following corrections:

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. In order to mitigate for these hazards, the applicant proposes to overexcavate to depths as great as 17 feet below sea level within the area proposed for residential and associated development. The overexcavation process is proposed to involve approximately **481,670** ~~400,000~~ cubic yards of cut. Of the ~~is~~ **481,670 cubic yards of** cut material, unsuitable fill materials such as peat would be **stockpiled on site for use in common landscape areas exported**, 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 ~~be~~ prevent liquefaction. ~~The combined volume of overexcavation and recompaction material is estimated at 481,670 cubic yards. Thus, the total amount of unsuitable fill material to be removed from the site is expected to be approximately 178,330 cubic yards.~~ Potential impacts due to liquefaction are also proposed to be mitigated on site with structural design features.

12. On page 93, in the third paragraph from the bottom of the page, under the heading I. Water Quality, subheading 2. Natural Treatment System/Wetland Restoration, make the following correction:

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** ~~2/40~~ acre-feet, which is 31% less than the proposed storage volume.

F. Correspondence Received Regarding the Proposed Project

1. Letters Received in Support of the Proposed Project

Numerous copies of each of four emails have been received supporting the proposed project. The first email (67 copies received as of 10/3/11) supports the proposed development based on its flood protection aspects. The second email (4 copies received as of 10/3/11) states that it supports the proposed project because it will not harm any recognized natural resources on site, and will protect and create additional habitat and wetland on site. In addition, the second email states that it supports the project based on improvements to water quality resulting from the proposed project. The third email (17 copies received as of 10/3/11) states that the project has been under review by the Coastal Commission since 2002 and that adequate information has been generated to support the proposed project. A sample copy of each of the four emails is attached herein.

In addition, a letter was received from the County Supervisor who represents the subject site, also supporting the flood protection aspects of the proposed development. A copy of the additional letter in support is attached.

A letter from the applicant to the Bolsa Chica Land Trust (BCLT) responding to the BCLT's news release is also attached.

2. Letters Received in Opposition to the Proposed Project

Three letters opposed to the proposed project were received. They are each attached. One of the three objection letters is from the Bolsa Chica Land Trust. The attachment to the letter of objection received from the Bolsa Chica Land Trust is available on the Commission's website. All three letters object to the project based on adverse impacts to the adjacent neighborhood due to the proposed overexcavation and dewatering aspect of the project. Two of the three letters object for a number of additional reasons as well and raise questions regarding aspects of the staff report. Some of the concerns raised in the second two letters are addressed in this addendum. For example, farming has continued at the site through 2010, not 2007 has stated in the staff report. Also, the current property owner/project applicant did own the site during the time that unpermitted development occurred. However, the letter writers do not claim that these errors in the staff report create the need to make changes in the proposed project or in the staff recommendation. Another concern raised in the letter of objection is whether the flood protection analysis is outdated.

3. Ex Parte Communications

Two ex parte communications disclosure forms were received. They are attached herein.

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 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;

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;

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 (VFPP) 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.

Correspondence
Received
In
Favor
Of
Proposed Project

Meg Vaughn

From: ae.cruz@verizon.net
Sent: Thursday, September 29, 2011 2:43 PM
To: Meg Vaughn
Subject: Parkside Estates - Approve for flood control benefits

Agenda Item Th-9F

September 29, 2011

Ms. Meg Vaughn
California Coastal Commission
200 Ocean Gate, Suite 1000
Long Beach CA 90802

RE: Parkside Estates Coastal Development Permit

Dear Ms. Vaughn:

I am writing in support of applicant Parkside Estates' pending Coastal Development Permit. The Coastal Commission's approval will remove the last major regulatory hurdle keeping enhanced flood protection from our area and reduce the risk to our property, livelihood and lives we now face.

These protections also will bring financial relief to thousands during these extremely difficult times. Once Parkside Estates is approved and Shea Homes completes the required flood protection improvements, seven thousand home and business owners will no longer have to pay flood insurance premiums. At a conservative estimate of \$1,000 per year in insurance premium costs per property, that would free up \$7 million annually for more productive use. Thousands more homes and businesses would be eligible for lower insurance premiums.

I realize that the Coastal Commission doesn't make decisions based on reducing flood insurance risk, but your mission does call for protecting human resources along the coast, and Parkside Estates will do just that. I therefore ask the Commission to expedite this project's Coastal Development Permit.

Allan Cruz
Huntington Beach, CA 92648
ae.cruz@verizon.net
714-596-2605

9/30/2011

Meg Vaughn

From: spatrckucla@yahoo.com

Sent: Saturday, October 01, 2011 11:21 AM

To: Meg Vaughn

Subject: Approve Parkside Estates CDP

Agenda Item Th-9F

October 1, 2011

Ms. Meg Vaughn
California Coastal Commission
200 Ocean Gate, Suite 1000
Long Beach CA 90802

RE: Coastal Development Permit for Parkside Estates

Dear Ms. Vaughn:

Parkside Estates in Huntington Beach first came to the Coastal Commission's attention in 2002, when Shea Homes filed its first Coastal Development Permit application. Now, thousands of pages and many, many hearings later, the project is finally coming before the Commission for its Coastal Development Permit.

This project has been studied enough and the time has come to approve it. Every square inch of this property has been pored over by scientists, and we now know exactly what must be protected and what doesn't. The applicant has agreed to protect and provide for the ongoing maintenance of all the natural resources on the site. They have agreed to restrictions on lighting, pets and plants. They have accepted a reduction in development area, resulting in a change in home count from 170 to 111 - yet, they are still providing all the regional infrastructure that benefits many outside of the Parkside Estates boundaries.

The Coastal Commission has completed all the work Californians expect it to do. It has protected coastal resources and improved coastal access. It's time to approve the pending Parkside Estates Coastal Development Permit.

Stephanie Kossoris
Grand Terrace, CA 92313
spatrckucla@yahoo.com

10/3/2011

9 copies received

Page 1 of 1
Th 9f

Meg Vaughn

From: bdamon10@msn.com
Sent: Friday, September 30, 2011 4:35 PM
To: Meg Vaughn
Subject: Approve Parkside - it protects coastal resources

Agenda Item Th-9F

September 30, 2011

Ms. Meg Vaughn
California Coastal Commission
200 Ocean Gate, Suite 1000
Long Beach CA 90802

RE: Parkside Estates Coastal Development Permit

Dear Ms. Vaughn:

I am writing to urge the Coastal Commission to quickly approve Shea Homes' pending Coastal Development Permit for Parkside Estates in Huntington Beach.

Shea Homes has lived up to its pledge to design a project that does not harm any recognized natural resources on the site. The plan protects and buffers the site's wetlands and its Environmentally Sensitive Habitat Areas. It even will create and provide a water source to a new wetland, yielding over six acres in total of vital coastal wetlands.

The plan also will improve water quality in the Huntington Beach Coastal Zone by creating a natural treatment system that will treat dry-weather "urban slobber" in the 3,000-acre Slater watershed, in addition to treating runoff from Parkside and the Cabo del Mar condominiums.

I therefore respectfully request that the Commission approve the Parkside Estates Coastal Development Permit.

Breanna Moreno
Perris, CA 92570
bdamon10@msn.com

10/3/2011

4 Copies Received

Page 1 of 1
Th 9f

Meg Vaughn

From: rlombard@lombardcs.com
Sent: Sunday, October 02, 2011 12:36 PM
To: Meg Vaughn
Subject: Approve Parkside Estates; protect us from tidal flooding

Agenda Item Th-9F

October 2, 2011

Ms. Meg Vaughn
California Coastal Commission
200 Ocean Gate, Suite 1000
Long Beach CA 90802

RE: Parkside Estates CDP

Dear Ms. Vaughn:

When the Coastal Commission approved the Fish & Wildlife Service/Public Lands Commission plan for the Bolsa Chica restoration, it placed my home and the homes of approximately 800 of my neighbors near the Graham/Warner intersection in Huntington Beach at risk of tidal flooding. How could the Commission allow an old, degraded, barely elevated dirt road serve as the only protection between us and a flood that could be caused by a minor tsunami or the confluence of heavy rains and high tide?

The Commission has the opportunity to correct this mistake by allowing Shea Homes to provide the protection you didn't require of government agencies when they were before you. Because our homes are at risk, Parkside Estates needs to be approved without further delay so we can be protected from the risk created when the levee that protected us was breached to create the Bolsa Chica muted tidal basin. For more information and an animation of the tidal flooding we can expect until this grievous mistake is fixed, see <http://www.sheaparkside.com/flood-landing.html>.

I urge the Coastal Commission to quickly approve the pending Parkside Estates CDP application so Shea Homes can build the "Vegetated Flood Protection Feature" that will protect us.

raymond lombard
Huntington beach, ca 92648
rlombard@lombardcs.com
840-8230

10/3/2011



JOHN M. W. MOORLACH, C.P.A.

ORANGE COUNTY BOARD OF SUPERVISORS
SUPERVISOR, SECOND DISTRICT

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Th 9f
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PAMELA NEWCOMB
POLICY ADVISOR

ALYSON PRICE
POLICY ADVISOR

MARGARET CHANG
EXECUTIVE ASSISTANT

September 22, 2011

RECEIVED
South Coast Region

SEP 29 2011

Hon. Mary K. Shallenberger
California Coastal Commission
45 Fremont Street, Suite 4000
San Francisco CA 94105

CALIFORNIA
COASTAL COMMISSION

RE: Coastal Development Permit 5-11-068, Shea Homes, Huntington Beach

Dear Chairwoman Shallenberger:

I am the Supervisor for the Second Supervisorial District of Orange County, which includes Huntington Beach. Among my commitments to my constituents is protecting environmental resources and supporting local tourism. I am proud that the Second District includes the Bolsa Chica restoration project as a centerpiece of cooperative environmental restoration and would like to express my gratitude to the Commission for its support of Huntington Beach tourism through its commitment to coastal access.

My office has also made a critical commitment to protect public safety. In that regard, I am writing to you to request that the Commission approve Coastal Development Permit 5-11-068 for the Shea Homes' Parkside Estates project at your meeting on October 6, 2011.

As part of its development, Shea Homes is required to install, at its own expense, regional flood protection features that will result in more than 7,000 homes and businesses being removed from the Federal Emergency Management Agency's flood map for the area. Additionally, homes on 2,000 adjacent acres will be placed at lower flood risk, and 800 homes not at risk of tidal flooding from the Bolsa Chica Tidal Pocket will be protected from that risk. It will also bring economic relief to thousands of Second District residents through the elimination of mandatory flood insurance premiums. Together, this represents a great enhancement of public safety at no cost to taxpayers.

None of this critical and beneficial flood mitigation can happen without the Commission's approval of Shea Homes' coastal development permit. This project represents the significant first, downstream portion of a larger flood control improvement project for Huntington Beach. I am working to secure funding for the upstream channel improvements, which is difficult during these challenging economic times. I believe Parkside Estates' completion of its flood control infrastructure requirements will help us to expedite our own funding and approval processes in Huntington Beach.

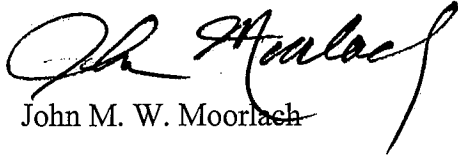
Hon. Mary K. Shallenberger

September 22, 2011

Page 2

My staff has met with representatives of Parkside Estates and had the opportunity to walk the property and view the possible impacts of development on the surrounding habitat. We understand the plan before you preserves, restores and maintains all sensitive habitat identified by the Commission on the site, at no taxpayer expense. With that assurance, I urge you and your fellow commissioners to support this project.

Very truly yours,

A handwritten signature in black ink, appearing to read "John Moorlach", written over the printed name.

John M. W. Moorlach

cc: Ms. Meg Vaughn

Meg Vaughn

From: Steve Barnhart [SBarnhart@hunsaker.com]
Sent: Friday, September 30, 2011 4:51 PM
To: bclandtrust@verizon.net
Cc: Meg Vaughn; Teresa Henry
Subject: Th-9F - FROM RON METZLER: Request to correct BCLT website
September 30, 2011

Ms. Connie Boardman
President
Bolsa Chica Land Trust
VIA Email: bclandtrust@verizon.net

Dear Ms. Boardman:

We have reviewed the news release posted on the BCLT website regarding our Parkside Estates project and ask that you revise it to correct the errors noted below. I am sure you agree with me that it is important to respect the public by providing them with accurate information.

- Our tallest building height of Parkside Estates' homes is 31.5 feet above finished grade, not 40 feet. Additionally, the homes closest to our neighbors on Kenilworth will be at least 116 feet from the wall along the property line, with the depth of our neighbors' back yards providing additional set-back. In other words, there is about three times more horizontal distance between us and our neighbors than there is vertical height to our homes.
- The depth of over-excavation is stated in the Commission's staff report on page 88 as 17 feet, not 55 feet. The 55-foot figure is the depth of the eight dewatering wells – not over-excavation trenches – the nearest of which will be over 100 feet from the North property line. Please also note that both the City and the Coastal Commission have imposed conditions for extensive pre-construction surveys and continuous surveying and monitoring operations during construction in order to prevent any damage to adjoining properties. We fully agree with this condition. For more information, please see [the dewatering FAQ](#) on our website, www.SheaParkside.com.
- In order to give your members and others accurate information, you should point out that the assumption of risk condition included in the staff report is standard condition language that is imposed on nearly anyone seeking a permit from the Coastal Commission. For example, the Commission required similar language from Orange County Public Works for its recent south levee upgrade CDP as Special Condition 10, and participants in Coastal Cleanup Day events have to sign a similar document, which you can see [here](#).

While BCLT's statement about the height of the new levee we are conditioned to build (the VFPPF) is correct, your organization misleads its members and the public by failing to point out that the City's EIR, FEMA and the Coastal Commission certified land use plan all require that we

10/3/2011

build it. It is required in order to protect 800 existing homes and the Parkside site from the risk of tidal flooding created when federal and state resource agencies put unrestricted culverts through a flood protection levee as part of the Bolsa Chica restoration project, which your group supported. You can learn more about the tidal flooding risk, and the protection our project will provide, on our website's [flood control page](#).

Sincerely,

Shea Homes LP

Ron Metzler

cc: Meg Vaughn and Teresa Henry, California Coastal Commission

10/3/2011

Correspondence
Received
in
Opposition
to
Proposed Project

RECEIVED
South Coast Region

September 30, 2011

SEP 30 2011

California Coastal Commission
200 Oceangate Ste 1000
Long Beach, CA 90802-4302

CALIFORNIA
COASTAL COMMISSION

RE: OCTOBER 6, 2011, Th-9f. Application No. 5-11-68 (Shea Homes, Huntington Beach)

Dear Coastal Commissioners and Staff,

I have been involved with the local community, and the Bolsa Chica Land Trust, on this project since 2002, when it was narrowly approved 4-3 by the Huntington Beach City Council. I have read the staff report for this latest CDP and would like to alert you to some concerns and questions I found:

Public Access Signage (pg. 9)

Can (some of) the signs that inform the public of public access also be required to inform people that dogs MUST be on leash at all times and alert people to coyotes? Homeowners aren't going to be sharing the literature pamphlets described on page 69 with visitors, plus the homeowners themselves can use reminding. Off leash dogs are EXTREMELY popular on this project site now, and it's very easy to imagine owners letting their dogs loose on the Active Park site to play Frisbee.

Public Restroom & the Active Public Park (pgs. 11 & 13)

A technicality: on page 13, the restroom required on page 11 is not mentioned as one of the "allowed" items within the Active Park. If the restroom is required, shouldn't it specifically be allowed to be there?

Protecting Raptors during grading/construction/development (pg. 13, 26-27, 62)

Typically, the Commission prohibits grading/construction/development activities that would disturb nesting raptors, and staff reports are usually consistent on this point. Oddly, this staff report is inconsistent on when raptors are to be protected:

- Page 13 (development phasing) mentions the period of "*raptor nest initiation (January 1 through April 30)*"
- Pages 26-27 (construction staging) do not mention raptors at all
- Page 62 (grading during construction) mentions active nests "*during the breeding season (Feb 15 to Aug 31)*"

To improve clarity and avoid confusion of what is/is not permitted with regards to raptors, the time period(s) when construction may not occur in order to protect raptors must be standardized throughout the staff report.

Construction Staging Area and Fencing (pg. 26-27)

This section is unclear about where the temporary barriers will be in relation to the buffers.

Lighting (pg. 27)

"Furthermore, no skyward-casting lighting shall be used."

This exact wording was used for the nearby Brightwater project (pg. 33 of those revised findings). Yet decorative landscape lights were installed at Brightwater that aimed upwards to illuminate trees, apparently without penalty. What assurances are there that the same won't happen at Parkside? Or are decorative landscape lights an exception to this rule?

Additionally, the "no skyward-casting lighting" restriction must also apply to all signage. That is, if any signs are to be illuminated, it needs to be from above and not from below.

Walls, Fences, Gates, Safety Devices and Boundaries in Open Space Habitat Areas (pg. 28)

"...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."

Homeowners have proven time and again that they will let their pets roam outdoors even when coyotes are wandering down their streets, as repeatedly reported in the *Orange County Register* newspaper. And even if cats can't climb a wall, they can go around them just like people. That is why I strongly urge additional wording on community access/information signs regarding dog leashes and coyotes.

Water Quality Management Plan (pg. 28, and again pgs. 91-92)

It is my understanding that new (2011) regulations have gone into effect for Orange County. The staff report is unclear if this project's WQMP and BMP incorporate the new 2011 standards, as pg. 92 only says that the WQMP dates from 2009.

Project Location, Site Description & History (pg. 38)

"However, the site has not been farmed since approximately late 2007."

This statement is incorrect, for it directly contradicts eyewitnesses – the Kenilworth homeowners who live next to the field in question. Larry Eaton posted a few public e-mails, and even photos, documenting farming activity after 2007.

On 6/5/2008, Mr. Eaton sent a public e-mail that said "Beans shooting up", with a photo showing farmed rows:



A year later, on 7/3/09, Mr. Eaton sent a public e-mail that said in part:

"They are cultivating. You could look at it this way: They started before 7 am in the middle of the field so that the equipment would have minimal disturbance to those who like to sleep late. I know that at the present time 12:57 pm, the Kenilworth side was completed a hour or more ago, can not see the equipment at the moment."

Even if Mr. Eaton has misidentified the crop in question (it may not be beans), to say that no farming activity has taken place since 2007 is an incorrect statement and must be corrected in the staff report.

Trash Removal (pgs. 62, 64-68)

"On-going, twice yearly trash and debris removal is proposed within the eucalyptus ESHAs in perpetuity." (pg. 62)

The staff report mentions trash removal several times in this section, but only on page 62 is it described as "twice yearly". Are ALL the mentions of trash removal also semi-annual (twice yearly), or is the semi-annual schedule limited to just the Eucalyptus groves? Who is responsible for the trash removal?

Monitoring & Maintenance (pg. 64)

"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."

Does the CCC maintain a calendar of when reports are due? How will this be enforced? Is there a penalty for non-compliance?

Coastal Sage Scrub (pg. 66)

"Annual reports will be generated based on the monitoring."

Who will be generating the reports, and to whom will they be submitted? Is there a penalty for non-compliance?

Wildlife Protection and Domestic Animal Control Plan (pg. 68-69)

See my above comment about the signage—it would be wise to include information about leashed dogs and coyotes on the area's signage, not just for visitors, but to reinforce the message for the residents. Off leash dogs are EXTREMELY popular on this site now, and it's very easy to imagine owners letting their dogs loose on the Active Park site to play Frisbee.

Hazard (pg. 81)

The staff report does not mention the nearby Newport-Inglewood fault. Even if the fault has been dismissed as a hazard, the staff report (which later becomes findings) should note that fact, so Commissioners and the public aren't left wondering about it.

Assumption of Risk (pg. 90)

This is a prudent condition on the Commission's part, placing responsibility for "any and all" claims on the applicant's shoulders. However, it is unclear whether the condition includes just the newly built houses, or whether it also covers off-site, existing homes surrounding the project site. The staff report says:

"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." (pg. 90, emphasis added)

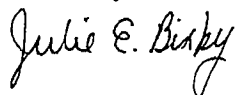
The way this is worded, it sounds like only the newly built Parkside units and lots ("failure of the development to withstand") are included in the condition. There isn't any specific text noting pre-existing, off-site structures, which might fail to withstand the development construction. It's not wise to leave key stuff like this unspecified and open to interpretation (by, say, a lawyer, who is paid to parse wording like this).

If this condition applies (or can be interpreted to apply) only to units within the new development, the Commission might regret it. In southeast Huntington Beach, the Orange County Sanitation District laid a new sewer pipeline on Bushard Street. "Homeowners sued the sanitation district, the city of Huntington Beach and the project's contractor in March 2005, alleging damage to their homes because of construction methods." (OC Register, July 14, 2006) The suit was settled out of court.

Construction methods for the OCSD pipeline included dewatering. And certainly a pipeline trench was far less complex—and far less of an expected hazard—than the over-excavating and dewatering required at the Shea property. Thus, it is crucial to clarify whether or not off-site structures are included in this assumption of risk condition.

Thank you.

Sincerely,



Julie E. Bixby

Coastal Commission Letter 9/28/11

David & Monica Hamilton
 5401 Kenilworth Drive
 Huntington Beach, CA 92649
 Phone: (714) 840-8901
 E-mail: de.hamilton@verizon.net

Th-9f

September 28, 2011

Meg Vaughn and Teresa Henry
 California Coastal Commission
 200 OceanGate, 10th Floor
 Long Beach, CA 90802-4416
 Fax: (562) 590-5084

RECEIVED
 South Coast Region

SEP 29 2011

CALIFORNIA
 COASTAL COMMISSION

Re: CCC October agenda item Th9f: Shea/Parkside Development site & Staff Report

Dear Ms. Vaughn & Ms. Henry,

Though our concerns about this development are numerous, three concerns need to be reiterated as follows:

1. The overall design plans of the reconstructed/restored EPA wetland lack sufficient detail to tell if the restored wetland is either a retention basin or a detention basin. The text of the Habitat Management Plan (HMP) does not make it clear. That text only references a "1-foot standpipe" at the central point of drainage and supplemental water flow from the NTS. The text also states the wetland will only be wet during and after rain events and remain dry otherwise. Thereby the overall design is more that of a large catch basin than of a reconstructed wetland. A better description would be that of a tumbleweed trap in the dry season and silt trap in the wet season. This is not a satisfactory design. A far better design would have the basin retain, i.e. pond, sufficient water to remain wet in all but the driest periods. This would allow flora and soils better conditions to take on true, natural wetland characteristics over time. The mosquito breeding issue with retained water is overstated. Retained water allows very efficient biological mosquito abatement, whereas the current design will need routine chemical treatment.
 We support requirement that the "TPA wetlands" be set aside for preservation as wetlands. The preference should be that the restoration be as a true "natural" wetland in *all* respects. As is, the design seems to be overtly artificial and otherwise.
2. Flooding risk for our home and neighborhood on Kenilworth Drive will increase according to the most recent FEMA flood assessment for our area. The risk was also acknowledged in the Staff Report. Allowing this development as planned seems to be in conflict with Section 30253 of the Coastal Act.
3. Shea Homes and assigns are required to indemnify (Conditions 21 & 22 in the subject staff report) the CCC, its staff, and commissioners against any possible liability resulting from this development. Such potential liabilities are acknowledged in the staff report, especially the potential of damages to homes caused by site dewatering and subsidence from lowering the water table under our homes. Recognizing the same liabilities, the City of Huntington Beach required very similar indemnification from the developer. Yet our public pleas to the

Coastal Commission Letter 9/28/11

City that a similar developer's indemnification was needed for local residents' homes and appurtenances were dismissed as not necessary. However, our needs are even greater because damages from subsidence are often not immediately evident. So the developer's monitoring plan is not acceptable for adequately addressing potential latent damages.

Our concerns were compounded with Orange County's recent (October 2010) groundwater report of the low-lying areas near the FGG&W channel that had undergone sheet-pile reinforcement. The report restated the potential for subsidence in our area.

All in all, the staff report and County report are evidence of our and our neighbors need for indemnification by the developer. Again, allowing this development as planned seems to be in conflict with Section 30253 of the Coastal Act.

Thank you and the Commission for giving attention to our concerns.

Sincerely,

David & Monica Hamilton
Huntington Beach Homeowners



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South Coast Region

SEP 30 2011

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Connie Boardman
Vice President
Carrie Thomas
Treasurer
Jim Anderson
Secretary
Marinka Horack

September 29, 2011

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

CALIFORNIA
COASTAL COMMISSION

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RE: OCTOBER 6, 2011, Th-9f. **Application No. 5-11-68**
(Shea Homes, Huntington Beach)

Dear Chair Shallenberger and members of the Commission:

These comments, distributed to Commissioners and Coastal Staff, 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.

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In general, the Bolsa Chica Land Trust (BCLT) agrees with the 26 Special Conditions recommended by staff to make this project compliant with the Coastal Act. In particular, we strongly support Conditions #8 & 9 regarding the Preservation of Cultural Resources, and Condition #4 dealing with Enhanced Public Recreation.

Executive Director
Flossie Horgan

However, issues remain which we feel are still unaddressed, and we advise the Commission to DENY this CDP as submitted on the grounds that it is still not fully compliant with the Coastal Act.

ENDORSEMENTS

Amigos de Bolsa Chica
Algalita Marine Research
Foundation
Anza Borrego Foundation
Ballona Wetlands Land
Trust
City of Huntington Beach
Friends of Harbors,
Beaches and Parks
Huntington Beach
Wetlands Conservancy
Huntington Beach Tomorrow
Orange Coast League of
Women Voters
Orange County
Coastkeeper
Peninsula Open Space Trust
Sea and Sage Audubon
Sierra Club
Angeles Chapter
Surfrider Foundation

These items are discussed in greater detail below.

I. Support of Special Conditions 8 & 9 – Preservation of Cultural Resources

The Bolsa Chica Land Trust applauds the concerted effort put forth for the preservation of Cultural Resources. For far too many years, historical artifacts at Bolsa Chica have not received the proper respect and mindful treatment they deserve. In particular, BCLT strongly supports:

- Requiring a report that meets OHP guidelines
- Requiring a reasonable deadline for preparation of final reports
(The final report for Brightwater have never been completed)
- *"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."* (Page 18)

Only by strictly enforcing and adhering to Conditions 8 & 9 is this project compliant with the Coastal Act.

I. Support of Special Condition #4 – Public Restroom to Encourage Public Access and Enhance Recreational Facilities.

BCLT supports the Coastal Act and supports placement of a permanent restroom at Bolsa Chica. While the Parkside Active Park would be an ideal "upland" location for this public recreational facility, the staff report does allow for the possibility of the restroom being located nearby (pg. 51). Should the Commission choose this option, BCLT recommends the 5-acre Hearthside property adjacent to Shea, zoned by the City of Huntington Beach as Open Space- Parks, as the only other feasible location.

II. Additional Concern – Lack of Enforcement for Unpermitted Development

Staff report Th9f-10-2011 briefly touches on the property's history of unpermitted development. It summarizes:

"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 [such unpermitted activities occurred prior to the current applicant's ownership]." (pg. 39, emphasis added)

In fact, the unpermitted development has continued under the current applicant's ownership. Jonathan Van Coops, Coastal Commission Mapping/GIS Program Manager, documented the property's land form alterations in a memo dated July 2, 2007. This memo was included in the City of Huntington Beach's LUP Amendment HNB-MAJ-1-06 staff report as Exhibit MMM and is attached to this letter as BCLT Exhibit 3.

The Van Coops memo chronicles several decades of unpermitted development (landform alterations) of the property. Extensive fill was imported during stables operations prior to Shea's ownership, which was subsequently redistributed during

Shea's ownership. For example, Van Coops lays out in detail how the large EPA wetland was filled and the much smaller AP wetland was excavated during the Shea years.

From Von Coops' 2007 memo:

(referring to a 1997 photo): *"Similar to the 1970, 1980 and 1986 views, the area now occupied by the AP wetland is shown at elevation zero and above. The 1997 map actually shows six inch contours, and indicates the AP location is at 0.5 foot and above."* (pg. 12)

(referring to a 2005 photo): *"The area now occupied by the AP wetland is shown at elevation zero and below and represents the area graded or excavated to that depth".* (pg. 15)

In spite of plentiful documentation of unpermitted development, no notice of violation has ever been issued for most of it, nor have any fines been levied. This is a gross oversight by the Commission. Failure to address unpermitted development only encourages further unpermitted development, not only at Bolsa Chica but throughout the state.

The issue of unpermitted development on this property must be addressed before taking action on the CDP.

III. Additional Concern – Site Dewatering Hazard Underestimated

Coastal Act Section 30253 states in part:

New development shall do all of the following:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area...

Special Condition 21 requiring liability release and indemnification for the Commission serves to underscore the high level of risk of this proposed project. Even so, the dewatering requirements of the proposed project pose an unacceptable risk of shallow groundwater disturbance and associated subsidence damage to adjacent properties.

Staff report Th9f-10-2011 quotes from a May 28, 2009 applicant study 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"* (pg. 90). These levels conflict with subsequent Orange County Flood Control District (OCFCD)

studies that assessed potential impacts from proposed C05 Wintersburg Channel levee improvements.

The May 20, 2010 "East Garden Grove-Wintersburg Channel (C05) Levee Soil Mix Project Groundwater Impact Evaluation" study performed by Hushmand Associates, Inc. (HAI) is attached as BCLT Exhibit 1. The most comprehensive study to-date of groundwater in the Bolsa Chica area, this study reviewed several prior studies, including some by the applicant's consultant PSE, and collected original data from an extensive network of new and pre-existing wells in the neighborhoods surrounding the Shea property.

The HAI study notes the complexity of the area groundwater regime, documents the shallow groundwater existing condition (since the 2008 emergency installation of north levee sheet piles), and warns of estimated total subsidence of ½ to 1-inch (HAI pg. 29) due solely to the levee improvements based on the impact of sheet pile being driven to a depth of 35ft below ground surface. The HAI study does not factor in the proposed development of Shea Parkside.

Additionally, OCFCD commissioned a review of the HAI study by WRC Consulting Services, Inc. dated October 11, 2010 and attached as BCLT Exhibit 2. The WRC review concurred with the HAI study on the complexity of the groundwater regime and the potential for subsidence risks. From WRC page 5:

"WRC shared common concerns on the complexity of the subsurface groundwater in the project area, as the HAI monitoring results indicated. (Refer to WRC report titled "A Third Party Opinion Groundwater Impact Evaluation of The East Garden Grove-Wintersburg Channel (C05) Improvements" dated September 17, 2008.) The shallow groundwater elevations for the project area are difficult to predict entirely, and the monitoring efforts may not yield a complete understanding of the potential groundwater impacts specifically caused by the proposed improvements. Dynamic variation in the hydraulic gradients and perched groundwater interchange exists in the project area regardless of the proposed levee improvements. Inhomogeneous subsurface soils and groundwater conditions generally imply a higher risk of subsidence, even without any project influence. This is especially true for older homes present in the project area, which were not built with structural foundations meeting the current stringent design criteria." (emphasis added)

Note carefully the discrepancy between the staff-quoted 2009 applicant study drawdown to minus 8 north of the Shea property and to minus 19 south of the property versus the 2010 HAI study shallow groundwater contour maps showing current conditions of approximately minus 8 to the north and minus 2 to the south. If the current conditions are minus 8 to the north and minus 2 to the south, and the Parkside project will require 8 dewatering wells to a depth of 55 feet, then the actual project drawdown will be even greater than what staff has quoted. The result

is a greater risk of subsidence than that forecasted by the HAI study because the drawdown is greater than just levee reconstruction alone.

The proposed project endangers surrounding neighborhoods in violation of Section 30253 and must be DENIED as submitted.

IV. Additional Concern – Flood Protection Analysis Outdated

Coastal Act Section 30253 states in part:

New development shall do all of the following:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area...

Staff report Th9f-10-2011 reviews the various improvements that will be performed to cope with flooding hazards of the proposed project and concludes:

"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 VFPP improvements will more than offset flooding impacts off-site. The Commission's staff geologist, in his 2006 memo determined that "Together, these improvements [proposed flood mitigation measures] 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." (pgs. 97-88)

The staff report also notes that *"The intent of the levee improvements is gain [sic] Federal Emergency Management Agency (FEMA) certification for the levee."* (pg. 85)

On September 27, 2011, BCLT contacted FEMA staff to inquire about the status of Parkside Estates' Conditional Letter of Map Revision 01-09-393R. From FEMA's website (<http://www.fema.gov/plan/prevent/floodplain/nfipkeywords/clomr.shtm>):

"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."

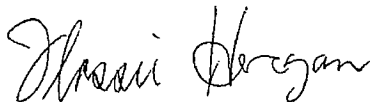
FEMA told BCLT that the Parkside CLOMR is "closed" and has been superseded by the December 3, 2009 Flood Insurance Rate Map (BCLT Exhibit 4).

The 2009 rate map continues to show the Shea property and surrounding neighborhoods in Zone A, with no BFE established. Thus it is erroneous today to use the 2006 memo to assert that the proposed elevations of the current project will be higher than the BFE, and will remove 7000 homes from the flood plain, when the current BFE is actually undefined and the CLOMR is no longer valid.

In the absence of FEMA BFEs or a valid CLOMR to address flooding hazards, this proposed project does not comply with Section 30253 and must be DENIED as submitted.

In Conclusion, while the Bolsa Chica Land Trust supports all of the Special Conditions to bring this proposed project into compliance with the Coastal Act, BCLT feels this project has additional issues that are NOT in compliance with the Coastal Act. Therefore, the CDP must be DENIED as submitted.

Sincerely,



Flossie Horgan
Bolsa Chica Land Trust

Attachments

Ex Parte Communication Disclosure Forms

Meg Vaughn

From: Teresa Henry
Sent: Monday, October 03, 2011 11:58 AM
To: Meg Vaughn
Subject: FW: Th 9f ex parte Shea Homes with Bolsa Chica Land Trust
Importance: High

Here's another for the addendum

Teresa Henry
District Manager, South Coast District
California Coastal Commission
(562) 590-5071

From: Vanessa Miller
Sent: Monday, October 03, 2011 11:29 AM
To: Teresa Henry
Subject: FW: Th 9f ex parte Shea Homes with Bolsa Chica Land Trust

From: Jana Zimmer [mailto:janazimmer@cox.net]
Sent: Monday, October 03, 2011 11:05 AM
To: Vanessa Miller; Jeff Staben
Subject: Th 9f ex parte Shea Homes with Bolsa Chica Land Trust

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LPC, etc.: _Th 9f Shea

Date and time of receipt of communication: October 3, 2011 9:00a.m. – 9:30
a.m. _____

Location of communication:

Type of communication (letter, facsimile, etc.):
telecon _____

Person(s) initiating communication: Flossie Horgan, Karen Merickel Bolsa
Chica LT _____

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

_They gave background. BCLT 5000 members want to preserve and restore all of Bolsa

Chica. The Initial plan in 1992 was to build 4400 houses. Wetlands are in a depression between two mesas. Part of the Shea property is up the hill, but most is down in the wetlands depression. The flood control channel brings fresh water down to the ocean. Described the various purchases by the State and wetland creation. The total acreage of the area is 1700 A, the reserve is now 1100 A.

The Goodell property to the west is under review. West of that is a graded area, that is the upper bench of the Bolsa Chica mesa has also been built out. North of Goodell, the 'Ridge' is proposed for 25 homes. It is owned by the property owner to the west. (Hearthside Homes)

They support the staff conditions # 8 and 9 archaeological resources; they are requiring a report that meets guidelines. Also agree on public restrooms.

Their concerns are based on Coastal Act Section 30253 on minimizing risks in high flood and fire hazard; and to assure stability and structural integrity, etc. The hazards at p. 88 of staff report discusses over excavation 17 ft below sea level, and that they will need 8 dewatering wells up to a depth of 55 feet (necessary because excavating below sea level). The Issue is that the whole Shea property is wetland. They purchased in the early 90's, but before court of appeals decision in Bolsa Chica. Owner has continued to farm the property, and in doing so has raised the elevation. They have moved the soils around, there were unpermitted fills not brought by Shea, but used by Shea to recontour the land. So, there is a total volume of over excavation and recompaction of 480,000 cu.yds. That equals 400 miles of dumptrucks lined up from Shea property to San Francisco. Their letter contains an exhibit (2007) MMM which is the memo by the GIS mapping expert to John Dixon at the time of the Land Use Plan, where they were cut back to 111 homes.

Page 90 of staff report on subsequent information on hazard section May 2010, October 2009, both of which contradict applicant data on subsidence (back to 30253). Newer studies contradict applicant's minimal assertion. Since 2007 new information has come out since 2007 regarding improvements to flood control channel. There will be considerably more subsidence.

Pointed out the Conditional Letter of Map revision (CLOMAR) issued by FEMA in 2001 which they say contradicts claims that 7000 people will not have to get flood insurance. CLOMAR is no longer valid because there is a new flood insurance rate map.

Date

Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

Meg Vaughn

From: Teresa Henry
Sent: Monday, October 03, 2011 11:57 AM
To: Meg Vaughn
Subject: FW: Th 9f ex parte Shea Homes applicant
Importance: High

Meg,
Please print for the addendum

Teresa Henry
District Manager, South Coast District
California Coastal Commission
(562) 590-5071

From: Vanessa Miller
Sent: Monday, October 03, 2011 11:29 AM
To: Teresa Henry
Subject: FW: Th 9f ex parte Shea Homes applicant

From: Jana Zimmer [mailto:janazimmer@cox.net]
Sent: Monday, October 03, 2011 10:58 AM
To: Jeff Staben; Vanessa Miller
Subject: Th 9f ex parte Shea Homes applicant

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LPC, etc.: _Th 9f Shea

Date and time of receipt of communication: October 3, 2011 9:30a.m. – 10:30
a.m. _____

Location of communication:

Type of communication (letter, facsimile, etc.):
telecon _____

Person(s) initiating communication: Susan McCabe , Steve Kaufmann, Ron
Metzler, independent contractor with Shea, Nancy Lucast, Donna Andrews
Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

This is a CDP for 111 homes in the Bolsa Chica area, the last phase of a long process.

Steve: came from the A.G.'s office, where he did a lot of work on Bolsa Chica.
Historically the amount of wetlands was determined. Then the ports bought the

10/3/2011

property for deep water mitigation credit and the property was dedicated to restoration. There is now water, a tidal inlet, flood control channel. Upperside of that is the mesa where the Brightwater (aka Hearthside Homes) development was approved.

Nancy Lucast: they are in agreement with staff, except for one condition where they are clarifying language on the public bathrooms. The land use plan was contentious. Because there is a lengthy history, they feel it is appropriate to brief new commissioners on the history of the land use plan.

Ron: The 2007 land use plan identified wetlands, it was recognized that there are 1.6 acres to be restored, enhanced and protected shown as AP, CP. They began the process in 1996. They do have some flood issues to resolve. They will need to upgrade and improve their frontage of the Wintersburg Flood Control channel. The tidal pocket to the west became a full tidal pocket, always containing water. The easterly edge is a dirt road. The tidal pocket is 7 feet higher than their property, now presents a flood threat and a tsunami threat. During LUP approval staff was involved in the location of a new levee they will construct.

Properties were farmed since the 50's. This process going on since 2002. The Implementation Plan was approved in October 2010. They were required to solve the archaeological unknowns. One of the features for flood control touched on an archaeological site. They did the work and found a solution, with staff concurrence.

They will be constructing the levee w/FEMA and County of Orange .

Described a water quality treatment feature that will treat their water and 25% percent of the Slater watershed regionally. FEMA will amend their current flood map to remove 7000 properties from flood insurance. Others will be at a lower flood risk. Coastal staff agrees with those assessments of the extent of the future benefit. There is no new information since 2007.

Parkside will provide 1 mile of public trails, including a class I bike trail which will connect to the Bolsa Chica preserve.

Regarding the language for the public restroom, they only found out about it a month ago, did not know specifics till they saw the staff report. CCC did not mention a bathroom in 2007 in the passive park. This will ostensibly accommodate trail users, but it is unclear whether it is to be available 24 hours/day.

Kaufmann: All these issues were exhaustively discussed and decided in the 2007 LUP, issues and not challenged in a lawsuit. The standard of review remains the Coastal Act, but everything is as it was, there is no new evidence, nothing has changed.

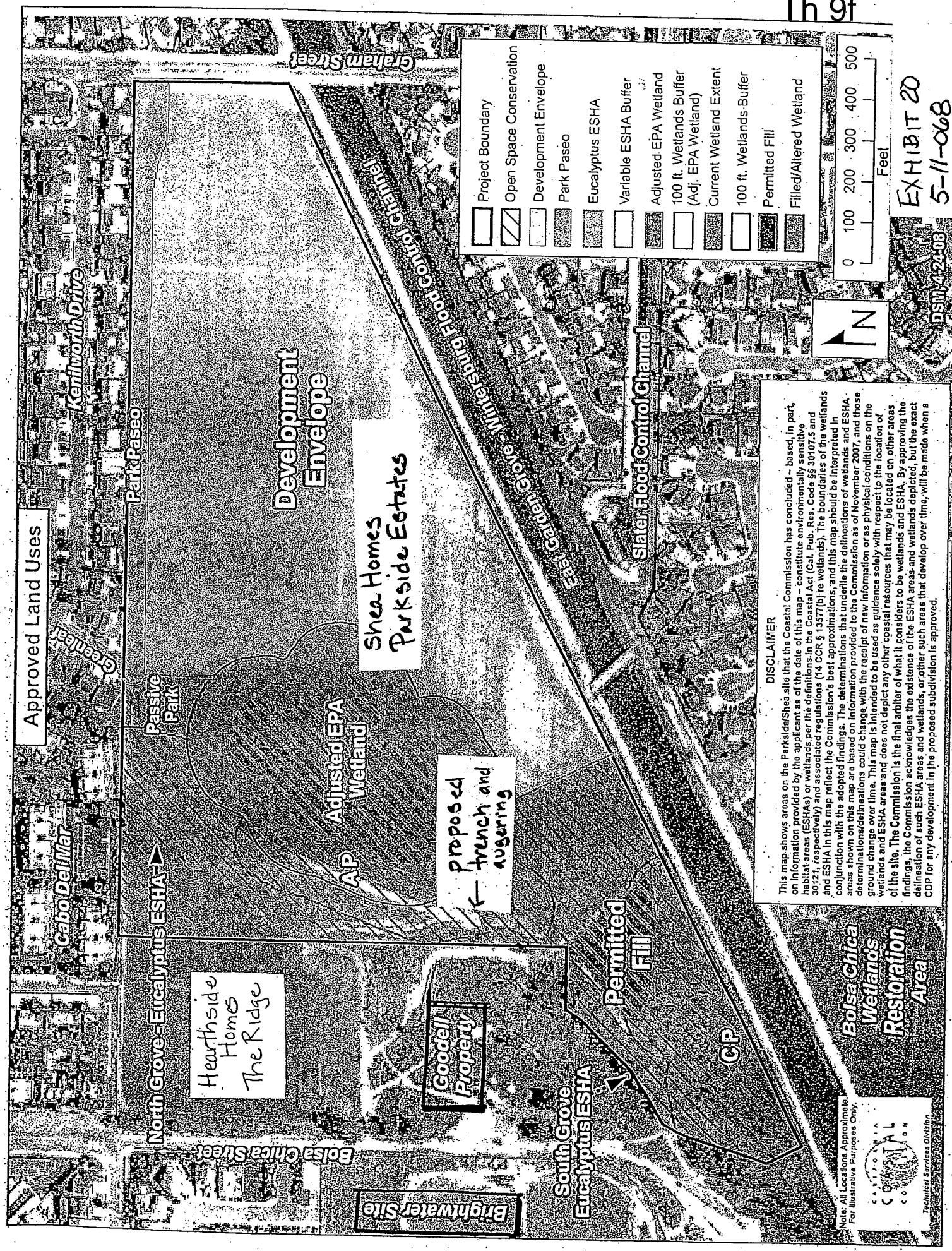
Date

Signature of Commissioner

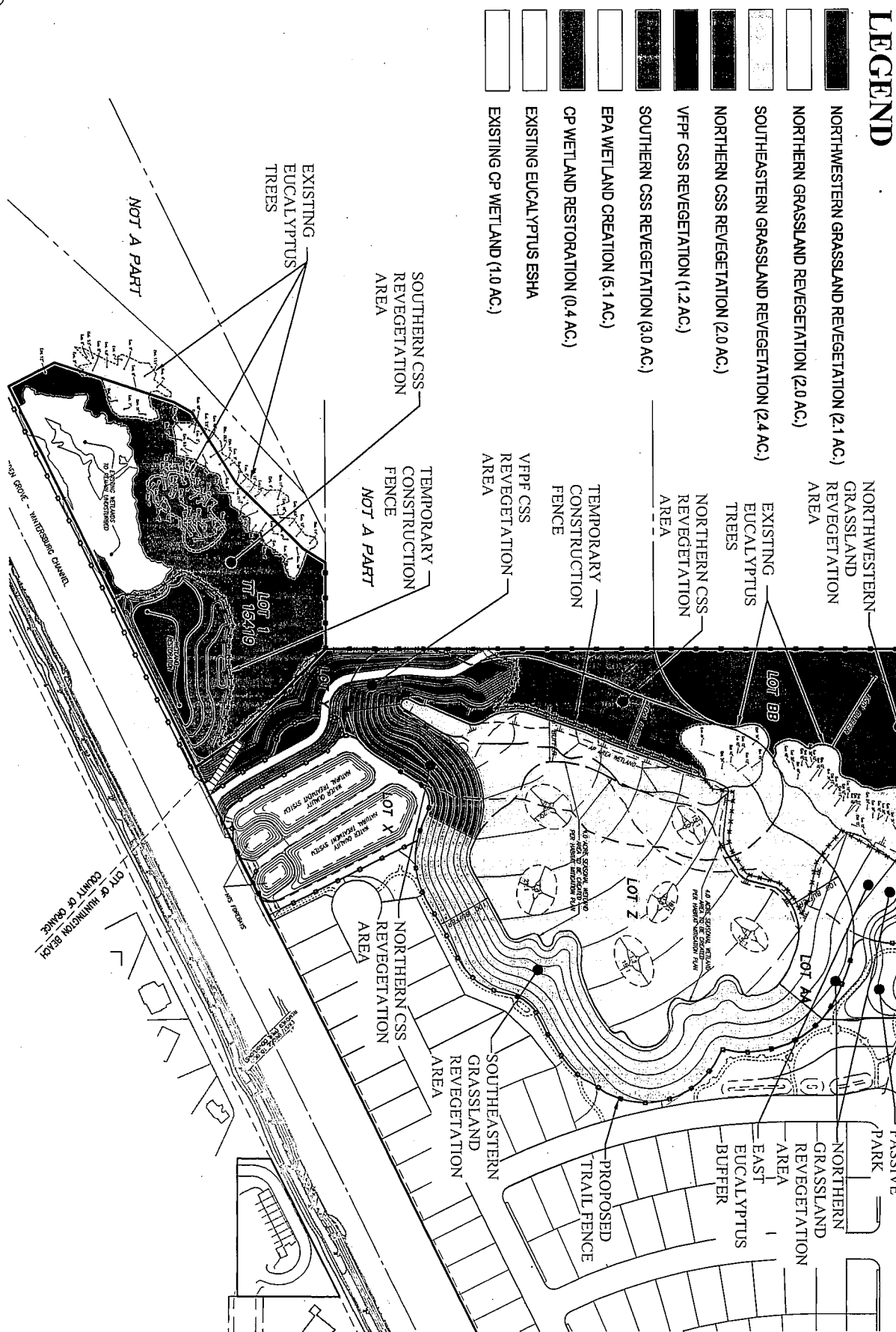
If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.



5-11-068



Scale: (approx.) 1"=250' 09/01/11

Restoration Plan

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Th 9f
Th 9f

STATE OF CALIFORNIA

OCT 04 2011

Edmund G. Brown, Jr., Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 384
SACRAMENTO, CA 95814
(916) 653-6251
FAX (916) 657-5390
Web Site www.nahc.ca.gov
e-mail: de_nahc@pacbell.net

CALIFORNIA
COASTAL COMMISSION

October 3, 2011

Ms. Teresa Henry, District Manager
California Coastal Commission, South Coast District
1200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

RE: CCC Application, 5-11-068 The Parkside Homes (Shea Homes) Project; Proposed Special Conditions

Dear Ms. Henry:

The Native American Heritage Commission (NAHC) has reviewed the Staff Report, Th 9f including the Special Conditions section, "Protection of Potential Archeological Resources During Grading," beginning on page 15. In sum,

- The NAHC supports the use of Native American Monitors during ground breaking activity on this project, and suggest that the attached NAHC Guidelines for Native American Monitors be utilized;
- This project site is known to the NAHC to be culturally sensitive; it is near well-known, recorded, archaeological sites (e.g. CA-ORA-83) and one archaeological item (e.g. 'house-pit') was identified during pre-construction testing;
- The NAHC advises, in the case of inadvertent discovery of remains that might be human, that the Orange County Coroner be notified immediately, pursuant to California Government Code §27491.

The NAHC is the State 'Trustee Agency' for the protection and preservation of Native American cultural resources pursuant to California Public Resources Code §21070. In the 1985 Appellate Court decision ((170 Cal App 3rd 604), the court held that the NAHC has jurisdiction and special expertise, as a state agency, over affected Native American resources, impacted by proposed projects including archaeological, places of religious significance to Native Americans and burial sites

If you have any questions, please do not hesitate to contact me.

Sincerely,



Dave Singleton
Program Analyst

Attachment

To: Tenth 9fenty
ccc

NATIVE AMERICAN HERITAGE COMMISSION GUIDELINES FOR NATIVE AMERICAN MONITORS/CONSULTANTS



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

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

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

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

DESIRABLE KNOWLEDGE AND ABILITIES:

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

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OCT 04 2011

CALIFORNIA
COASTAL COMMISSION

Th 9f



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



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

REQUIREMENTS:

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

Th 9f



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



EXPERIENCE:

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

PREFERENCE:

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

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

CALIFORNIA COASTAL COMMISSION

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

Th 9f

Filed: 3/16/11
180th Day: Waived
270th Day: 12/11/11
Staff: Meg Vaughn-LB
Staff Report: 9/22/11
Hearing Date: 10/5-7/11
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NUMBER: 5-11-068

APPLICANT: Shea Homes

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.

SUMMARY OF STAFF RECOMMENDATION:

Commission staff is recommending **APPROVAL** of the proposed project with 26 **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. An unresolved issue of the staff recommendation is the requirement to provide a public restroom at the proposed active park on the subject site. The applicant opposes this special condition.

SUBSTANTIVE FILE DOCUMENTS: See Attachment A

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.

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

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

I. STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application with special conditions:

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

STAFF RECOMMENDATION OF APPROVAL:

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: Approval with Conditions

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

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

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.”
- 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
Z TTM 15377	Restoration/Creation AP/EPA Wetland	4	HOA
AA TTM 15377	Buffer area surrounding AP/EPA Wetland (Lot Z)	5.4	HOA
BB* TTM 15377	Northern Eucalyptus ESHA, buffer area, and restored habitat	3.7	HOA
CC* TTM 15377	Open Space – Northern portion of northern Eucalyptus Grove ESHA and Retention of existing informal trail along western end of northern property line	0.4	HOA
Y	VFPF (includes Vista	1.5	County

TTM 15377	Point trail)		
X TTM 15377	NTS	1.6	City

- D. All planting described in the approved Habitat Management Plan shall be complete prior to commencement of construction of any residence or model home. 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	Offer to Dedicate (OTD) in fee to City; dedication on tract map	1 Acre
B TTM 15377	Sewer Lift Station; 10 foot wide	City in fee	City	OTD in fee to City for sewer lift	0.04 Acre

	public access easement			station; OTD easement to City for 10" wide public access; dedication on tract map	
C¹ TTM 15377	(1) Sidewalk & Landscaping; (2) Public trail/access path	(1) HOA in fee (2) OTD easement to the City	(1) HOA (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;	

¹ 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.

				CC&Rs; dedication on tract map	
S TTM 15377	Passive Park	City in fee	HOA	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	VFPF 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)	
Street s “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 plans shall depict the size of the sign face (minimum 2.5 feet by 2.5 feet), size of the letters on the sign (minimum 3-inch high lettering), overall height of the sign, and the method of posting (i.e. attached to free standing post, attached to gate, attached to trail fence, etc.).
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. 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.
- 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. On-going maintenance and management of the public restroom shall be the responsibility of the Homeowner' Association (HOA) proposed by the applicant.

- C. 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.
- D. 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, and public access signage.

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.
 3. Construction of the public trails, parks and restroom, pursuant to the approved Public Amenities and Trail Management Plan, shall be completed (including the installation of habitat protection fencing pursuant to the approved final Habitat Management Plan) prior to the commencement of construction of any residences, including model homes. 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 opening of the first model home for public viewing. 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 commencement of construction of any residence or model home.
- C.** The permittee shall undertake development in accordance with the approved 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) 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, 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 other artifacts, 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;
 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 other artifacts, 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 other artifacts, 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 Archaeological 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, 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: ESHA and Wetland Buffer area;
 - iii. Lots BB and CC [to be combined and re-lettered accordingly], TTM 15377: ESHA, habitat restoration and continuation of the informal public trail);
 - iv. Lot 1, TTM 15419: Wetland and Habitat.

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 & WP wetland areas) for wetland and habitat creation and restoration as approved by this permit;
- 8) TTM 15377 Lot AA (ESHA 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 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, issued by the Coastal Commission on Thursday, October 6, 2011; 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. Dedication to the City of Huntington Beach of the Natural Treatment System proposed within Lot X shall occur 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 (VFCF) 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 (VFPF) 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. Liability for Costs and Attorneys Fess

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. 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

The Commission hereby finds and declares:

Note: The findings for denial of the Land Use Plan as submitted are incorporated as if fully set forth herein (HNB-LCPA-1-06). The Commission denied the LUPA as submitted at the Commission's May 10, 2007 hearing. In addition, the findings adopted by the Commission in approving the Land Use Plan Amendment for the subject site (HNB LCPA 1-06) on November 14, 2007; and the findings adopted by the Commission in approving the Implementation Plan Amendment for the subject site (HNB-LCPA 2-10) on October 13, 2010 are 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 6282 square feet. The sizes of the proposed residences range from 3109 square feet to 3704 square feet. 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)
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1 – 111 TTM 15377	Single Family Residential Lots (5500 sq.ft. min.)	Private	Private	N/A	16 Acres (total)
A TTM 15377	Active Park	City in fee	HOA	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 & Landscaping; (2) Public trail/access path	(1) HOA in fee (2) OTD easement to the City	(1)HOA (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	HOA	deed restriction; CC&Rs; dedication	1.8 Acres

		City		on tract map (2) OTD easement to the City; dedication 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	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	Dedication on tract map	1.6 Acres
Y TTM 15377	VFPF	County in fee	County	Dedication on tract map	1.5 Acres
Z TTM 15377	Wetland Area Wetland Restoration/Creation	HOA in fee	HOA	Deed restriction; CC&Rs;	5.1 Acres

	Includes Combined EPA & AP wetland areas			dedication on tract map	
AA TTM 15377	Buffer Area	HOA in fee	HOA	Deed restriction, CC&Rs; dedication on tract map	5.4 Acres
BB TTM 15377	Open Space/Conservation 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
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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
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Aside from the NTS (Lot X), Active Park (Lot A), 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 6282 square feet. The residences are proposed to be two stories, approximately 24 feet above finished grade with attached either two or three car garages.

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 side. 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. Standard of Review

The standard of review for the subject coastal development permit application is consistency with the Chapter 3 policies of the Coastal Act. In addition, the City's certified LCP may be used as guidance. Moreover, the Commission's recent actions approving the Land Use Plan amendment (HNB LUPA 1-06) and Implementation Plan amendment (HNB IPA 2-10) for the subject site provide strong guidance as the Commission's most recent action for the area. The Land Use Plan amendment received Commission Concurrence on August 7, 2008. Final certification of the subject site is expected to occur when the Executive Director's determination that the City's action in accepting the suggested modifications to IPA 2-10 is scheduled for Commission concurrence at a subsequent hearing. At the request of the City, and supported by the applicant, Commission concurrence has not yet been scheduled in order to allow the Commission to act on the subject coastal development permit application.

C. 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 0.5 foot below mean sea level to approximately 2 feet above mean sea level. The western portion of the site is a bluff that rises to approximately 47 feet above sea level to the Bolsa Chica mesa. The Co5 levee at the site's southern border is approximately 12 feet above mean sea level. Until recently, the majority of the subject site has been more or less continuously farmed dating back to at least the 1950s. However, the site has not been farmed since approximately late 2007.

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.

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 [such unpermitted activities occurred prior to the current applicant's ownership]. 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.

D. 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 for areas located within the Coastal Zone without changes). 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 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 was approved with suggested modifications by the Coastal Commission on October 13, 2010. The City has accepted the suggested modifications, but Commission concurrence with the Executive Director's determination that the City's action was legally adequate has not yet been scheduled for Commission concurrence. That is expected to be scheduled following Commission action on this coastal development permit.

In the course of processing a coastal development permit for the proposed development as well as earlier version 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 site² 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 the applicant is required to withdraw that permit application

² 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 is currently certified and what area remains uncertified pending final adoption of the LCP IP amendment for the site. In any case, the City clearly depicted the area subject to its LCP amendment (through the exhibit to its resolution) and clearly "resubmitted" any portions of that area that may have been certified. Further, the City and the applicant have, pursuant to Coastal Act Section 30601.3, requested that this coastal development permit application be processed by the Coastal Commission, using Chapter 3 policies of the Coastal Act as the standard of review.

at the local level, thus making that application and related appeal moot.

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 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 LUP. In addition, the approved LUP 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.

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. (See Exhibit 7). The East Garden Grove-Wintersburg Flood Control Channel divides 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, the Coastal Act gives priority to land uses that provide opportunities for enhanced public access, public recreation and lower cost visitor recreational uses.

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 Section 30252 of the Coastal Act. 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 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 as reflected in the City’s certified LUP and in the Commission’s most recent LUP and IP amendments (used as guidance in the area), 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 (VFPP), 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 was specifically identified in the approved Land Use Plan amendment for the subject site. The approved LUPA 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.

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.

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) 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. All trails will be within 10 foot wide public access easements.

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.

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 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.

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 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 if conditioned can the proposed project be found to be consistent with the public access and recreation policies of 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 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 condition requiring a public restroom within the active park at the subject site unless the Commission approves an off-site location that will serve the project vicinity through a subsequent amendment, 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 access signs proposed are larger, provided at additional locations, contain enough information and that 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, a special condition 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.

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 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 10 to further the commission's mandate to maximize public access.

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 policies of the Coastal Act.

F. Wetlands, ESHA, & Habitat

1. Wetlands

Section 30121 of the Coastal Act states:

"Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

The Commission has further specified how wetlands are to be identified through regulations and guidance documents. Section 13577(b)(1) of the Commission's regulations states, in pertinent part:

Wetlands shall be defined as land where the 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 ... For purposes of this section, the upland limit of a wetland shall be defined as:

- (A) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;*
- (B) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or*
- (C) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not*

Section 30231 of the Coastal Act states, in pertinent part:

The biological productivity and the quality of ... wetlands ... appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, ... preventing depletion of ground water supplies and substantial interference with surface water flow, maintaining natural vegetation buffer areas that protect riparian habitats, ...

Section 30233(a) of the Coastal Act states:

The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

- 1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
- 2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
- 3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
- 4) Incidental public service purposes, including but not limited to, burying cables*

and pipes or inspection of piers and maintenance of existing intake and outfall lines.

- 5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
- 6) Restoration purposes.*
- 7) Nature study, aquaculture, or similar resource dependent activities.*

Section 30250 of the Coastal Act states, in pertinent part:

(a) New residential ... development ... shall be located ... where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

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 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 approved LUPA for the subject site requires that development of the 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 LUPA for the subject site further states:

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, new policy C 7.2.7, added to the City's certified LUP via the LUPA for the subject site, 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 [such unpermitted activities occurred prior to the current applicant's ownership]. 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) 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. In addition, wetland buffer areas are proposed. The wetland preservation and restoration is included in the proposed Habitat Management Plan (HMP), described in greater detail below.

2. ESHA

Section 30107.5 of the Coastal Act defines ESHA as:

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

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas*
- (b) Development in areas adjacent to environmentally sensitive habitat area 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.*

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

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

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 LUPA for the subject site further states:

*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*
 - i. 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, 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.

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 was recognized by the Commission as ESHA in its actions on the LUPA and IPA for the subject site.

Section 30240 requires that ESHA be protected from significant disruption and that only uses dependent upon the resource are allowed within ESHA. In addition, Section 30240 requires development adjacent to ESHA be sited and designed to prevent impacts which would significantly degrade those areas.

Section 30240 further requires that development be compatible with the continuance of the habitat area. This policy is carried over into the City's certified LUP ESHA policies. In order to assure the ESHA at the subject site is not significantly degraded and 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 move the 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.

In approving the LUPA for the subject site, when determining the area needed to adequately buffer the eucalyptus ESHAs, the Commission adopted a variable width buffer. The Commission's adopted buffer distance ranges from a minimum distance of 297 feet and 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 development recognizes the on-site Eucalyptus ESHAs and buffer area established by the Commission in approving the LUPA for the subject site. 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 LUPA approved for the subject site requires:

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 Coastal Act, 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 XXXXX.

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 acres. 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 wetland complex, 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 revegetated 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 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 area.

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.

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), gradually becoming shallower moving to the southwest (approximately 0.9 foot contour), with six hummocks of varying steepness (15:1 to 21:1 slopes) and heights (1.2 to 0.8 foot) 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 to a maximum of 7 foot contour elevation 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 area is proposed in the southeast portion of the area. The restoration area will be graded to the approximately 1 foot contour elevation. 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 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 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 VFPP 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. The approved LUPA specifically 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 Coastal Act, 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.

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 Section 30240 of the Coastal Act regarding protection of ESHA and with Section 30233 of the Coastal Act regarding protection of wetlands. It is important to assure that the Habitat Management Plan is implemented as conditioned. Therefore, the Commission imposes a special condition 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 Section 30240 and 30233 of the Coastal Act.

G. Cultural Resources

Section 30244 of the Coastal Act states:

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

Additionally, the 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 recently amended Huntington Beach LCP Implementation Plan (though not yet fully certified) 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 Commission³.

Coastal Act Section 30244 requires that any impacts to significant archaeological resources be reasonably mitigated. Avoidance of impacts to archaeological resources is the preferred alternative, which will avoid mitigation requirements. In the past, 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-

³ This language reflects the procedure that will be effective following the full certification of the Implementation Plan for the project area. The standard of review for the subject project is Chapter 3 of the Coastal Act with the Coastal Commission being the approval authority. Accordingly, all required plans shall be subject to the review and approval of the Executive Director unless the Executive Director determines that an amendment is needed. In such case, the amended project will need Coastal Commission approval.

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, geoarchaeologist, 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; (56) 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. 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.

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 Section 30244 of the Coastal Act and the guidance provided by the certified LUP for the protection of archaeological/cultural resources.

H. Hazard

Coastal Act Section 30253 state, 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.*

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

Without mitigation measures the subject site and 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.

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.

The vegetated flood protection feature (VFPP) 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 western end of the subject site, adjacent to the flood control levee, presents the most efficient location to install flood protection. 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. 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 subject site. The applicant is therefore proposing to construct a VFPP.

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 and wetland buffer area but not within the ESHA or wetlands themselves. 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.

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.

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). However, 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.

c) Flooding - Conclusion

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 VFPP improvements will more than offset flooding impacts off-site. The Commission's staff geologist, in his 2006 memo determined that "Together, these improvements [proposed flood mitigation measures] 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. In order to mitigate for these hazards, the applicant proposes to overexcavate to depths as great as 17 feet below sea level within the area proposed for residential and associated development. The overexcavation process is proposed to involve approximately 400,000 cubic yards of cut. Of this cut material, unsuitable fill materials such as peat would be exported, 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. The combined volume of overexcavation and recompaction material is estimated at 481,670 cubic yards. Thus, the total amount of unsuitable fill material to be removed from the site is expected to be approximately 178,330 cubic yards. Potential impacts due to liquefaction are also proposed to be mitigated on site with structural design features.

This grading process is described as follows: "slot" excavations of approximately 10 feet of soil, dewater the excavation, replace the soil along with imported fill to both raise the site 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. The "slots" would be 50-foot wide areas that will 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 small area being used for active excavation/recompaction at any one time.

Since the excavations will extend well 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. In addition, a monitoring program will be in place to detect any settlement that occurs, allowing time to implement off-setting measures as needed. It should be noted that the reduced residential footprint compared to the area originally proposed via the original LCP amendment and related previous coastal development permit for the subject site, correspondingly reduces the area of necessary overexcavation/recompaction and of dewatering.

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) de minimus 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 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 sometimes 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 Section 30253 of the Coastal Act.

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 conditions are imposed that require the applicant to conform to the geotechnical consultants recommendations and to assume the risk of development. Therefore, as conditioned, the Commission finds the proposed development to be consistent with Section 30253 of the Coastal Act 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, in approving the LUPA for the subject site the Commission required 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 approved LUPA for the site, and to protect water quality as required by the Coastal Act, 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 Coastal Act. Therefore, the Commission imposes a special condition that requires that the WQMP be implemented as proposed. Only as conditioned can the proposed project be found to be consistent with Section 30230 and 30231 of the Coastal Act regarding water quality.

J. **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 for the subject site was approved with suggested modifications by the Coastal Commission on October 13, 2010. The City has accepted the suggested modifications, but Commission concurrence with the Executive Director's determination that the City's action was legally adequate has not yet been scheduled.

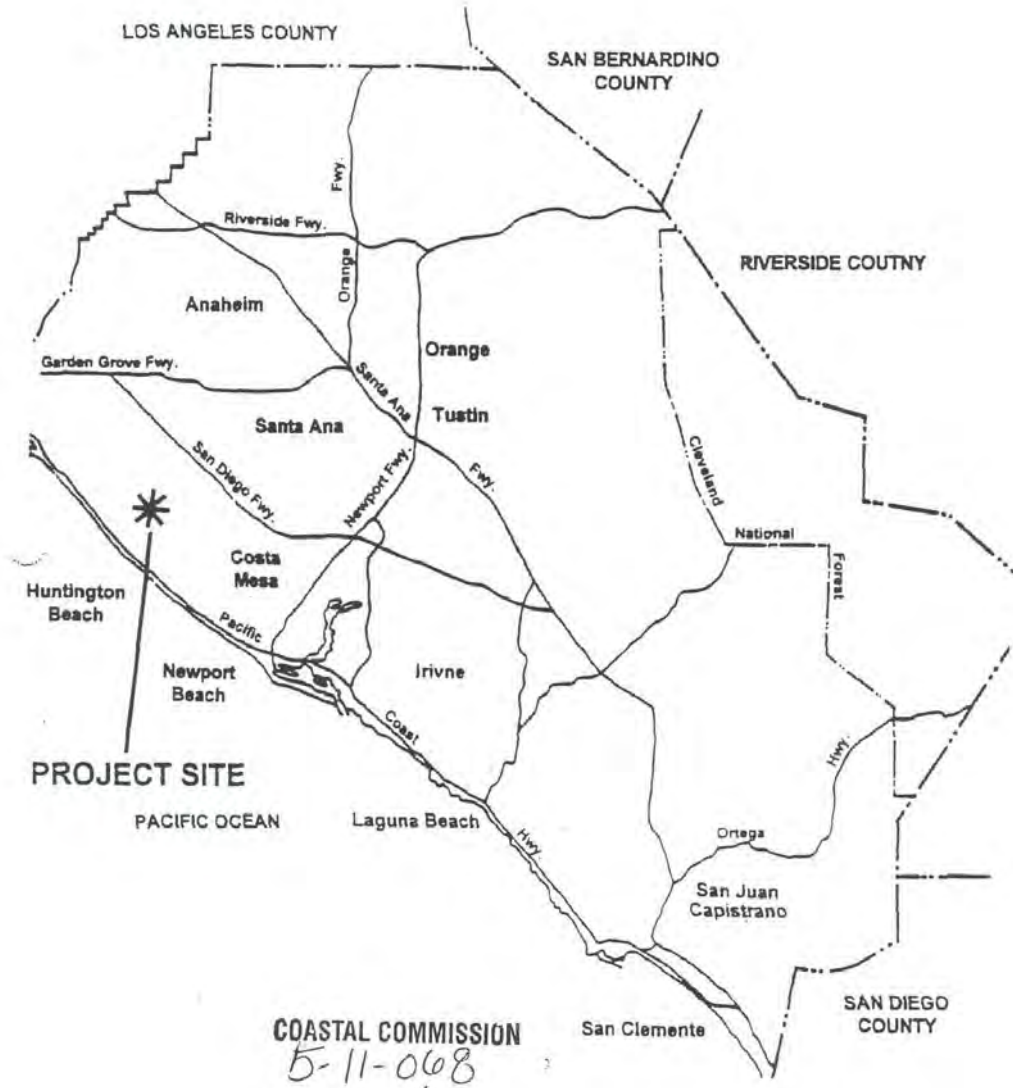
That is expected to be scheduled following Commission action on this coastal development permit.

The subject site is located within the City's final area of deferred certification. Certification in this area was deferred due to issues of wetland protection. However, as discussed 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 Coastal Act. In addition, the Commission finds that the proposed development, as conditioned will be consistent with the Commission's approval of the LUP and IP amendments for the subject site, though not finally certified. Therefore the Commission finds that approval of this project, as conditioned, will not prevent the City of Huntington Beach from preparing a total Local Coastal Program for this area of deferred certification that conforms with and is adequate to carry out the Chapter 3 policies of the Coastal Act.

K. 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.



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


No Scale
EDAW, Inc.
Source: EDAW, Inc.

Vicinity Map



COASTAL COMMISSION

5-11-068

EXHIBIT # 2

PAGE 1 OF 1



No Scale

EDAW, Inc.

Source: Hunsaker & Associates Irvine, Inc.

LOCATION MAP

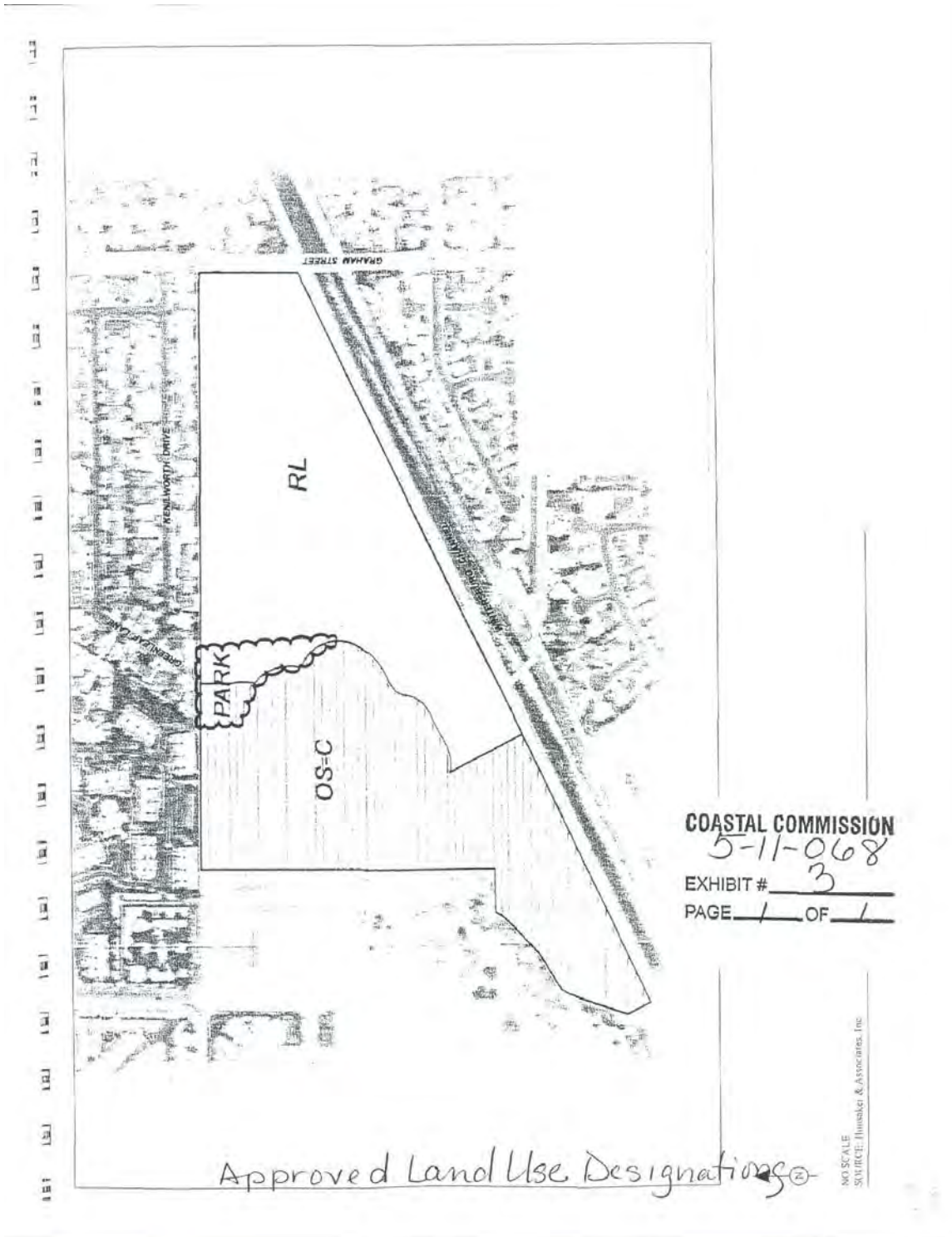




Exhibit 4

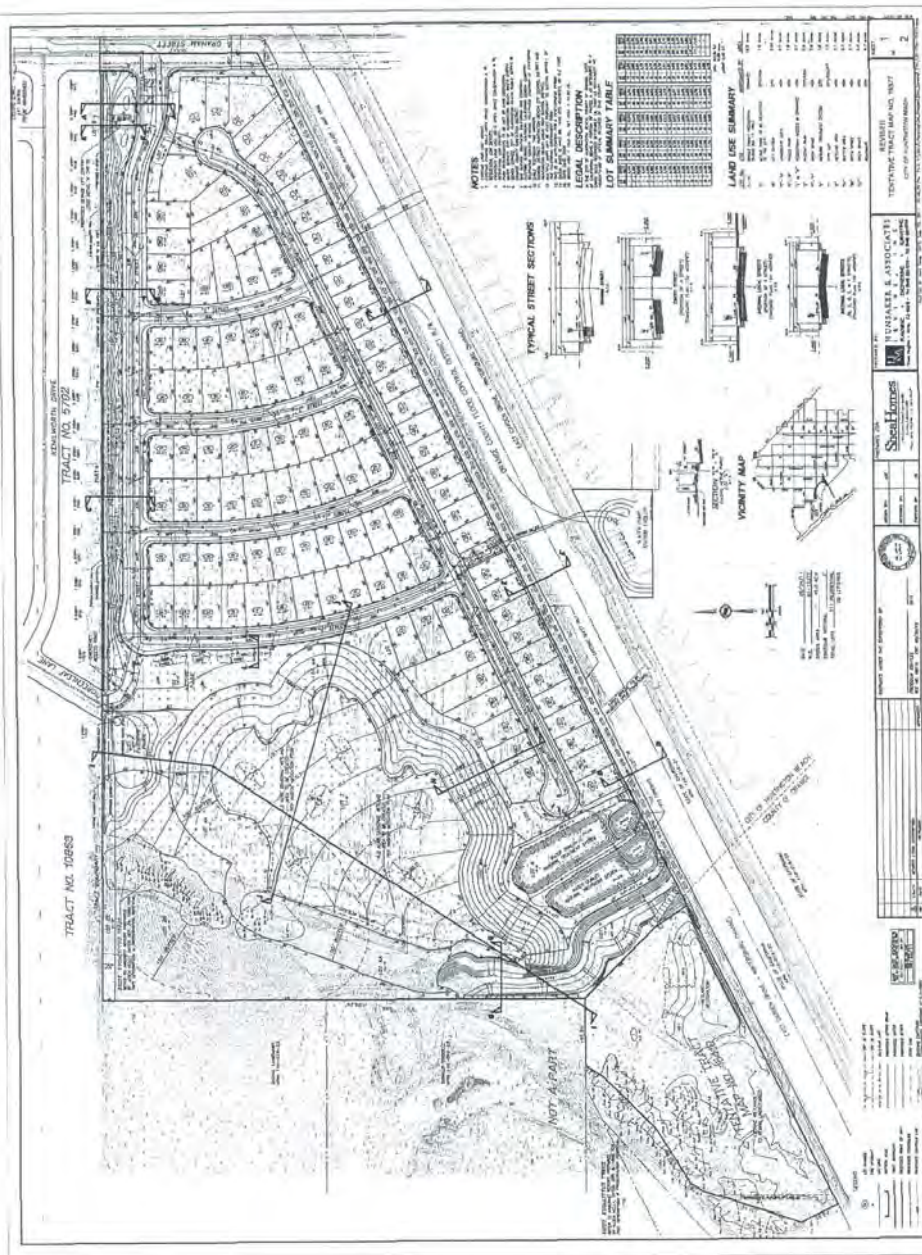
5-11-068





5-11-068

Exhibit 7



Parkside Estate:
City of Huntington Beach

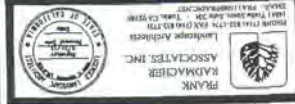


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EXHIBIT # 10
PAGE 1 OF 1

EXISTING PARCEL CONFIGURATION

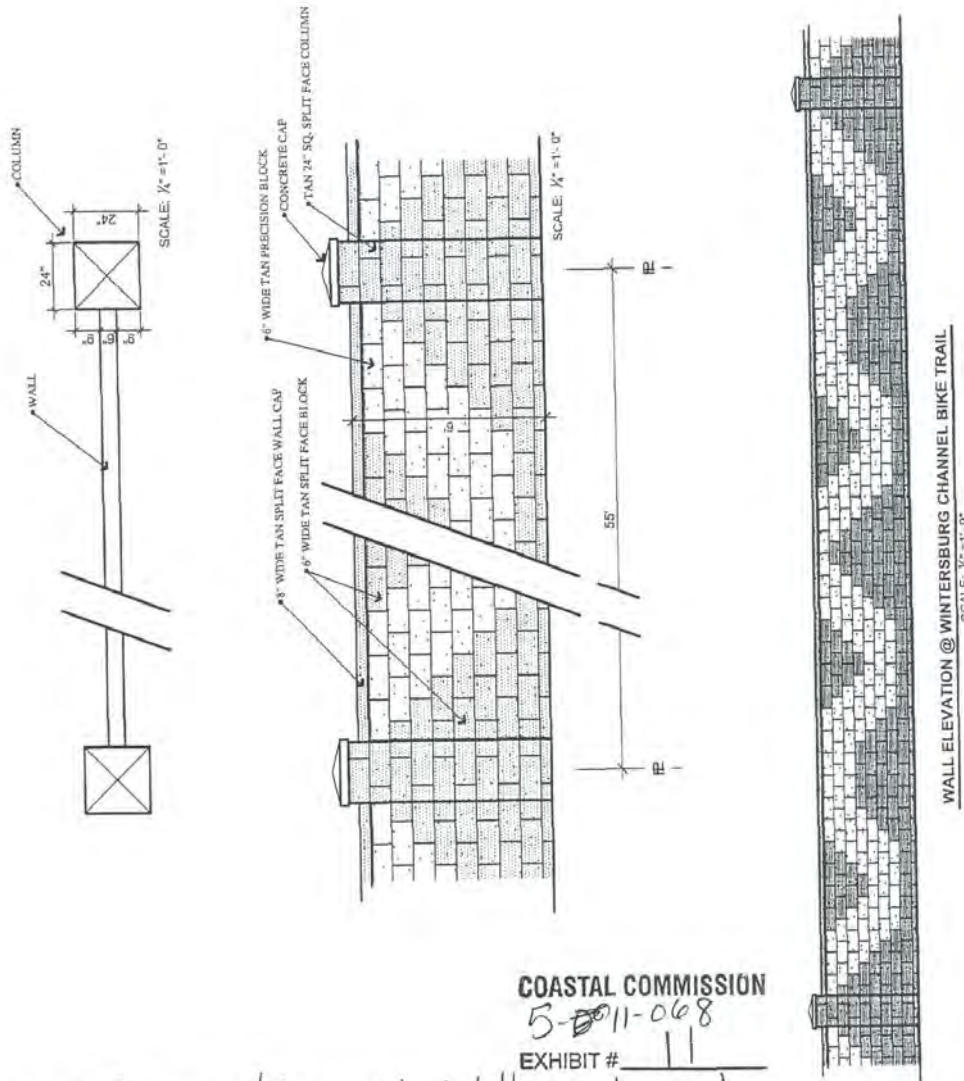
WALL @ WINTERSBURG
CHANNEL DETAIL SHEET

PARKSIDE ESTATES
SHEA HOMES
TRACT 15377 HUNTINGTON BEACH, CALIFORNIA
1535 CORONA POINT COURT, STE. 600
CORONA, CA 92625



PRCA# 2233

02/5/10



COASTAL COMMISSION

5-11-068

EXHIBIT # 11

PAGE 1 OF 1

Proposed Privacy/Security Wall
Adjacent to Levee Trail

**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 OceanGate, 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

5-11-068

EXHIBIT # 13

PAGE 1 OF 1



CITY OF HUNTINGTON BEACH
INTER-DEPARTMENT COMMUNICATION

FIRE PREVENTION

To: Scott Hess, Director of Planning
From: Bill Reardon, Fire Marshal / Division Chief
Date: December 10, 2009

A handwritten signature in black ink, appearing to be "WR", enclosed in a circular scribble.

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 (attachment #1), 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.

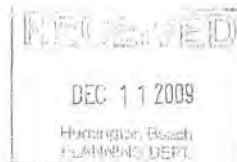
The Huntington Beach Fire Department continues to require a 100 foot low vegetation buffer along the common border with the homes. This would allow any vegetation located within that 100 foot zone to not present future problems for the Parkside development as it relates to any subdivision.

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 September 2009. 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
5-11-068
EXHIBIT # 14
PAGE 1 OF 1



ORANGE COUNTY
OC Community Resources
Our Community. Our Commitment.

FEB - 9 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) 973-8863.

Sincerely,



Mark Denny
Director, OC Parks

cc: Leslie Ray



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 VFPP 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 VFPP, 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\Tidegales to Warner\Shea Homes\Ltr NM to CCC - Shea Homes Approval in Concept - Feb2010.doc

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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 (VFPF) levee right of way dedication by Shea Homes. OC Public Works staff has previously indicated to Shea Homes that if the VFPF 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

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LSA

LSA ASSOCIATES, INC.
20 EXECUTIVE PARK, SUITE 200
IRVINE, CALIFORNIA 92614
949.557.8444 TEL
949.557.8974 FAX

BERKELEY
CARLSBAD
FORT COLLINS
FREMONT
PALM SPRINGS
POINT RICHMOND

RIVERSIDE
ROCKLIN
SAN 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.

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 jasminoides

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



Ari Homrighausen
Principal Biologist

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EXHIBIT # 18

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EXHIBIT # 19

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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

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 (z)
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

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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.

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