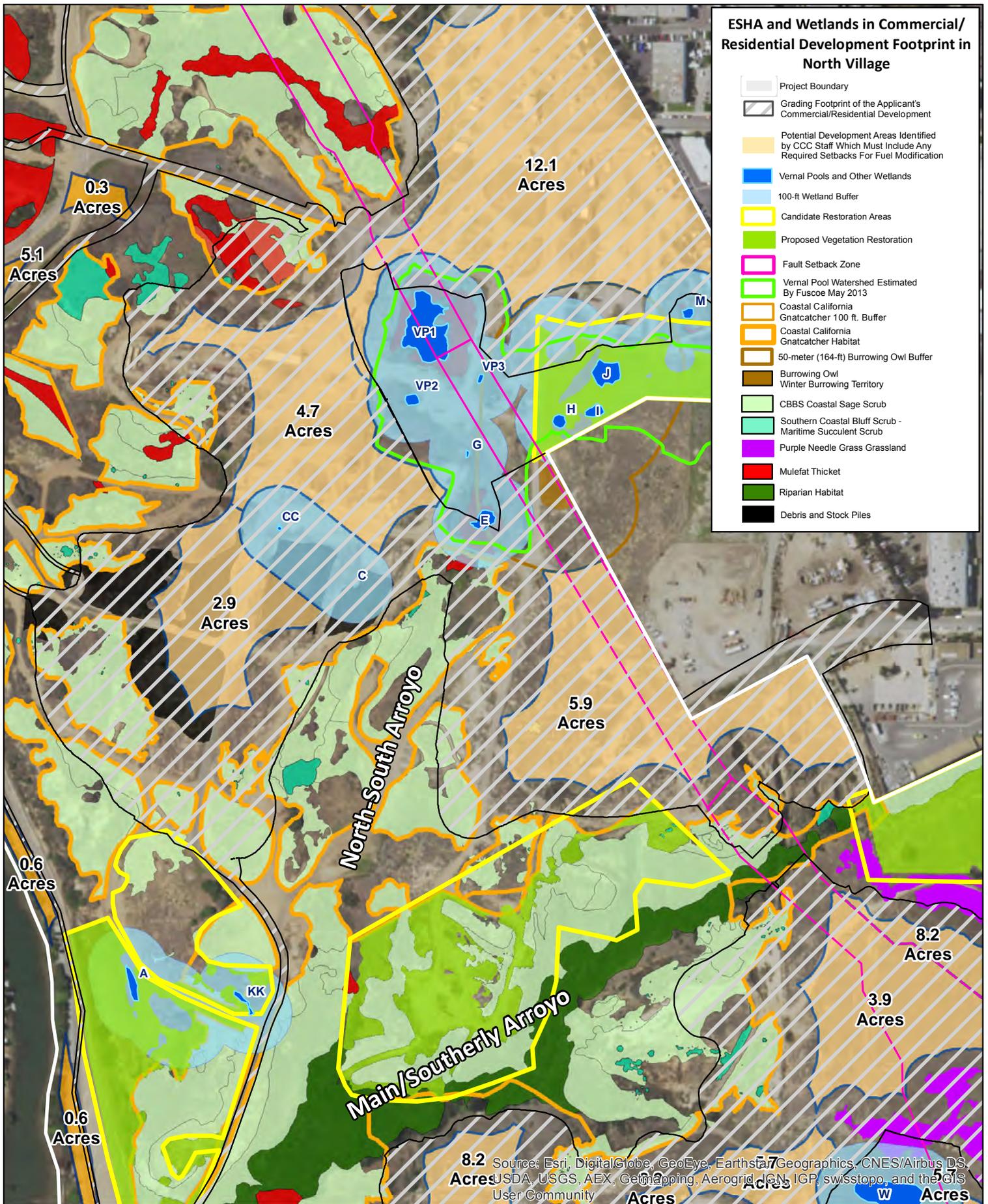


ESHA and Wetlands in Commercial/ Residential Development Footprint in South Village, Resort Colony and Park

- Project Boundary
- Grading Footprint of the Applicant's Commercial/Residential Development
- Potential Development Areas Identified by CCC Staff Which Must Include Any Required Setbacks For Fuel Modification
- Vernal Pools and Other Wetlands
- 100-ft Wetland Buffer
- Candidate Restoration Areas
- Proposed Vegetation Restoration
- Fault Setback Zone
- Vernal Pool Watershed Estimated By Fuscoe May 2013
- Coastal California Gnatcatcher 100 ft. Buffer
- Coastal California Gnatcatcher Habitat
- 50-meter (164-ft) Burrowing Owl Buffer
- Burrowing Owl Winter Burrowing Territory
- CBBS Coastal Sage Scrub
- Southern Coastal Bluff Scrub - Maritime Succulent Scrub
- Purple Needle Grass Grassland
- Mulefat Thicket
- Riparian Habitat
- Debris and Stock Piles

Source: Esri, DigitalGlobe, USDA, USGS, AEX, Getma User Community

EXHIBIT 13
ESHA and Wetlands in Commercial/Residential Development Footprint
in South Village, Resort Colony and Park



**ESHA and Wetlands in Commercial/
Residential Development Footprint in
North Village**

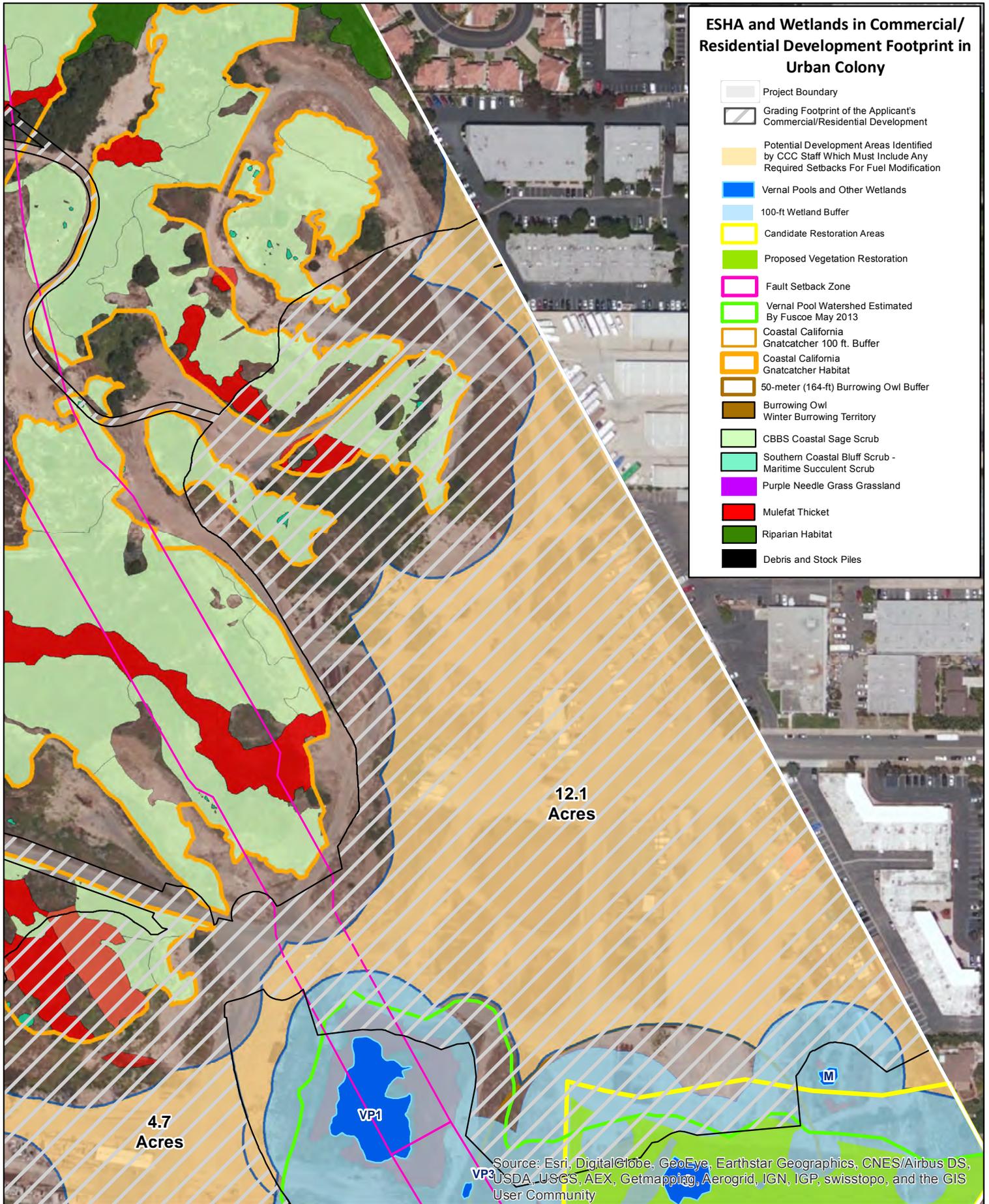
- Project Boundary
- Grading Footprint of the Applicant's Commercial/Residential Development
- Potential Development Areas Identified by CCC Staff Which Must Include Any Required Setbacks For Fuel Modification
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- 100-ft Wetland Buffer
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- Southern Coastal Bluff Scrub - Maritime Succulent Scrub
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- Mulefat Thicket
- Riparian Habitat
- Debris and Stock Piles

8.2 Acres Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Geomatics, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community 7 Acres 5.1 Acres W Acres

**EXHIBIT 13
ESHA and Wetlands in Commercial/Residential Development Footprint
in North Village**



For Illustrative Purposes Only. Source: Brooks-Street, Dudek, USACE, CDFW, ESRI, CCC.



- ESHA and Wetlands in Commercial/Residential Development Footprint in Urban Colony**
- Project Boundary
 - Grading Footprint of the Applicant's Commercial/Residential Development
 - Potential Development Areas Identified by CCC Staff Which Must Include Any Required Setbacks For Fuel Modification
 - Vernal Pools and Other Wetlands
 - 100-ft Wetland Buffer
 - Candidate Restoration Areas
 - Proposed Vegetation Restoration
 - Fault Setback Zone
 - Vernal Pool Watershed Estimated By Fuscoe May 2013
 - Coastal California Gnatcatcher 100 ft. Buffer
 - Coastal California Gnatcatcher Habitat
 - 50-meter (164-ft) Burrowing Owl Buffer
 - Burrowing Owl Winter Burrowing Territory
 - CBBS Coastal Sage Scrub
 - Southern Coastal Bluff Scrub - Maritime Succulent Scrub
 - Purple Needle Grass Grassland
 - Mulefat Thicket
 - Riparian Habitat
 - Debris and Stock Piles

12.1 Acres

4.7 Acres

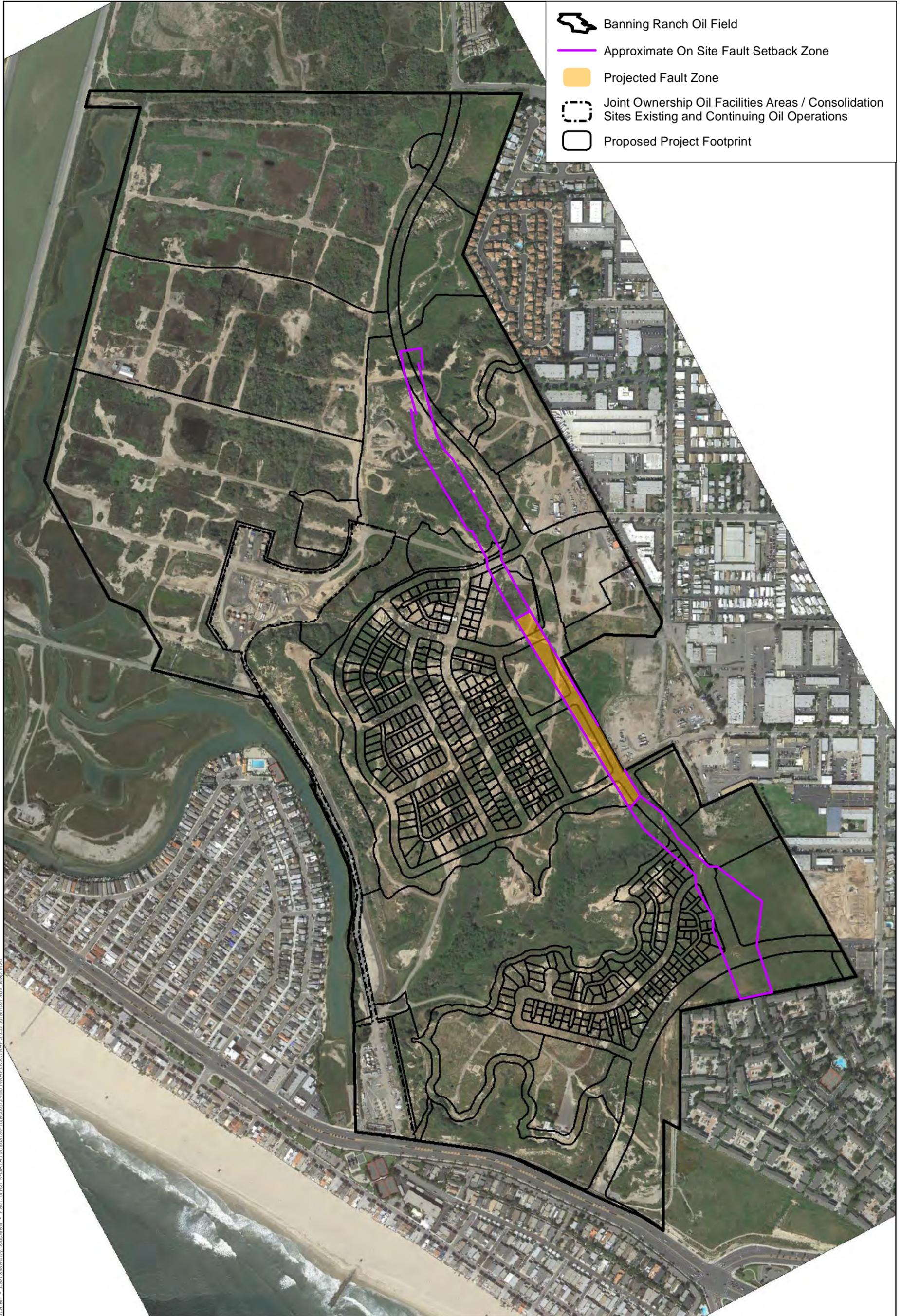
VP1

VP3

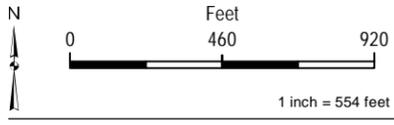
1M

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

EXHIBIT 13
ESHA and Wetlands in Commercial/Residential Development Footprint in Urban Colony



-  Banning Ranch Oil Field
-  Approximate On Site Fault Setback Zone
-  Projected Fault Zone
-  Joint Ownership Oil Facilities Areas / Consolidation Sites Existing and Continuing Oil Operations
-  Proposed Project Footprint



SOURCE: Aerial and Fault data provided by Fusco Engineering

Projected Newport Mesa Fault Zone

NEWPORT MESA BANNING RANCH & Development Plan

5-13-032 EXHIBIT 14

Depicted on this Exhibit

Page 1 of 2

Not Updated to Reflect Current Proposal

Date: 5/14/2013 - Created by: slucarelli - Last saved by: slucarelli - Path: \\HOTR-DATA\GIS\State\Projects\72480\1\AP\DOC\MAPS\Constraints\Fault_Map.mxd



- LEGEND:**
- CUT AND FILL LINE
 - LIMIT OF WORK
 - PROPERTY LINE
 - DISTURBANCE LINE
 - FAULT SETBACK AREA
 - PEDESTRIAN BRIDGE
 - BRIDGE
 - TOP OF BLUFF (LOCAL APPROVAL)
 - TOP OF BLUFF (COASTAL COMMISSION MARCH 2014)

**NEWPORT BANNING RANCH
GRADING PLAN EXHIBIT**

09/30/2014



F:\Projects\021\01\02\Grading\02101-01-Grading Plan Exhibit.dwg (10/27/2014 3:47:19) Plotted by: Don Butler

FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATIONS

Date and time of communication: 12 / 15 / 15

Location of communication: Embassy Suites, San Rafael
(If communication was sent by mail or
facsimile, indicate the means of transmission.)

Identity of person(s) initiating communication: Mike Mohlar, Dave Naish, Chris Yelich

Identity of person(s) receiving communication: Steve Kinsey

Name or description of project: Newport Banning Ranch

Description of content of communication:

(If communication included written material, attach a copy of the complete text of
the written material.)

Applicant representatives discussed their concerns
with withdrawal of their application and I proposed
reasons why it would be responsive to the Commission
and staff, providing assurance that a new application
would be reviewed in March 2016.

12 / 15 / 15
Date

SK Kinsey
Signature of Commissioner

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Bodco

1) Name or description of project: Banning Ranch

2) Date and time of receipt of communication: 11/4/15

3) Location of communication: Jay Moon Bay

(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)

4) Identity of person(s) initiating communication: Dave Neush

5) Identity of person(s) on whose behalf communication was made: Banning Ranch

6) Identity of persons(s) receiving communication: ~~Steve~~ Bodco

7) Identity of all person(s) present during the communication: Steve Kinsey

Dave Neush Mike Mohler

George Bayeye

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

see attached

11/4/15
Date

Bodco
Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, 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. This form may be filed with the Executive Director in addition to the oral disclosure.

Met with David Neish, Mike Mohler, George Baysye, Steve Kinsey. Applicants wanted to fill us in on their progress since the hearing. Applicants' said they submitted a new plan, decreasing the # of buildings significantly and avoiding ESHA.

Applicants' were fearful that staff would not move off of the "bubble map" (ESHA map presented by staff at hearing), although they feel there is significant evidence that certain "bubble" areas are highly disturbed and fragmented. Said they would be meeting with several staff members at the sight in the hopes that they could push the ball down the field.

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Mark Vargas

1) Name or description of project: Banning Ranch

2) Date and time of receipt of communication: Jan 22, 2016 at 10:00AM

3) Location of communication: Telephone
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)

4) Identity of person(s) initiating communication: Dorothy Kraus, Ginny Lombardi,
Tom Schottmiller

5) Identity of person(s) on whose behalf communication was made: Dorothy Kraus,
Ginny Lombardi, Tom Schottmiller

6) Identity of persons(s) receiving communication Mark Vargas

7) Identity of all person(s) present during the communication: Mark Vargas,
Dorothy Kraus, Ginny Lombardi, Tom Schottmiller

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

- Discussed ESHA definition, location and impact that ESHA has on development plans, which has an impact on the residents and quality of life concerns that they have.
- Discussed that the development will be 10 years of construction, and the impacts on the residents.
- Discussion surrounding the oil operation consolidation project and the application procedures.

Feb 3, 2016

Date



Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, 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. This form may be filed with the Executive Director in addition to the oral disclosure.

Ex Parte meeting with commissioners McClure, Vargas, Mitchell and Luevano

12-10-15 Monterey

Banning Ranch Conservancy (BRC): Terry Welsh, Steve Ray

1. General round table open-ended discussion of impressions of Oct. hearing and how things might progress moving forward.
2. Review of the Banning Ranch Conservancy's goal of preserving the entire property, but that if a development is to be approved, it is in our interest to see that the potential development be consistent with the Coastal Act.
3. Discussion of merits of cleaning up oil field while finding a project that is consistent with the Coastal Act.
4. A brief and general mentioning that NBR has publicly released a scaled-back project, and that CCC staff conducted a thorough site visit on Nov 12 and that the ESHA map will be revised.
5. Discussion of actually measuring the amount of soil contamination ("ground-truthing") before determining the extent of soil excavation and grading necessary. Discussion of the differences of open space clean-up standards vs residential clean-up standards.
6. Discussion of the meeting between NBR and BRC on 10-20-15. Future meetings are desired and BRC has sent two letters to NBR asking for additional meetings in the interim since 10-20-15. The second letter asked for a three-way meeting with staff, NBR and BRC. BRC is awaiting response and will follow up.
7. Discussion of the importance of "trusting your eyes" while also understanding and accepting the validity of the extensive scientific surveys that have been conducted and that describe wildlife and habitat areas on Banning Ranch.
8. Discussion of the idea of NBR withdrawing the CDP application and returning in March in order to give the CCC staff and NBR more time to find a project consistent with the Coastal Act.
9. Final closing comment on the ability of commissioners to deny projects, and how this should happen if there are impacts to ESHA and wetlands and how this must happen if the project is inconsistent with the Coastal Act.

Wendy Mitchell

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Wendy Mitchell

1) Name or description of project: Planning Ranch

2) Date and time of receipt of communication: 1/8/16

3) Location of communication: telephone

(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)

4) Identity of person(s) initiating communication:

Dorothy Krause, Jenny Lombardi

5) Identity of person(s) on whose behalf communication was made: _____

themselves

6) Identity of persons(s) receiving communication: _____

Wendy Mitchell

7) Identity of all person(s) present during the communication: _____

Dorothy Kraus, Jenny Lombardi,

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

Residents concerned about traffic and water impacts construction. Questions about process and different agencies involved. Wanted to understand the balance of ESA etc.

1/8/16
Date

[Signature]
Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, 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. This form may be filed with the Executive Director in addition to the oral disclosure.

From: **Mary Luevano**
Date: 15 January 2016 at 10:51
Subject: Re: Banning Ranch - Residents Request for Meeting

Dear Ms. Kraus,

Thanks for your email. My capacity to meet in person is limited but I would be open to scheduling a call with you and the people listed in your email. I have cc'd my intern, Carly Stoener as well who is assisting me with Commission issues. Please make sure to cc her on any replies. I have availability on Jan 26-29 anytime between 9-12pm.

Thank you. Mary Luévano

On 12 January 2016 at 14:34, Dorothy Kraus <> wrote:

Dear Commissioner Luévano,

Residents in Newport Beach, Huntington Beach, and Costa Mesa communities surrounding Banning Ranch are gravely concerned about the health and safety impacts the proposed development will have on so many during the 10-year long development process that includes oil field abandonment and contaminated soil clean-up, oil field consolidation, excavation, grading, construction, and ongoing impacts when the project is completed.

We understand that your responsibility under the Coastal Act does not include environmental effects on humans. However, while the scale, size and scope of this project has significant adverse impacts to the natural resources, it also has significant adverse health and safety impacts on the residents. We are afraid that our voices are not being heard, and that the Coastal Act is being violated to accommodate this development.

A few of us would appreciate talking with you about our concerns before the March hearing. We have already contacted the Air Quality Management District, Orange County Health Care Agency, Santa Ana Regional Water Quality Control Board, and the California Department of Toxic Substances Control to discuss these concerns, which was to no avail. We are deeply troubled that we will be collateral damage if the proposed project is approved in March by the Coastal Commission.

Thank you very much for your consideration to meet with us at your convenience.

Sincerely,

Dorothy Kraus, Newport Beach, Ginny Lombardi, Newport Beach Tom Schottmiller, Newport Beach Wendy Leece, Costa Mesa

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Bochco

1) Name or description of project: Banning Ranch

2) Date and time of receipt of communication: 1/19/16 - 2:30pm

3) Location of communication: my office

(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)

4) Identity of person(s) initiating communication: Dorothy Kraus
Tom Schottmiller

5) Identity of person(s) on whose behalf communication was made: Coalition of Concerned Citizens

6) Identity of persons(s) receiving communication: Bochco

7) Identity of all person(s) present during the communication: just us 3

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

attached

1/26/16
Date

Dayne Butler
Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, 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. This form may be filed with the Executive Director in addition to the oral disclosure.

Ms. Kraus and Mr. Schottmiller represent the Coalition of Concerned Citizens, which are neighbors of BR from the 3 surrounding cities. They have been involved for about 5 years. They have met with many agencies and the BR people to express their concerns of the project's potential impacts on health and safety of the neighbors. The EIR present the conclusion that there were unavoidable impacts from noise and traffic, but Newport Beach City Council held that the economic and social benefits outweigh the impacts.

Their purpose in meeting with me was mostly to clarify questions they had from the staff report and the last hearing. Their questions were about ESHA interpretation (Can the Commission override staff's version of ESHA), Oil abandonment (why don't other agencies have to permit before we do) and oil well consolidation (does BR need a separate CDP for the oil wells). I answered the best that I could (yes, if the Commission does not agree with staff's designation of ESHA we can have different findings), (the regional air board can't approve a grading plan without the projects parameters) and I have no idea what is involved with the oil wells.

I encouraged them to talk to staff and to BR reps who would most likely want to be helpful

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Greg Cox

- 1) Name or description of project: Name or description of project:
Newport Banning Ranch
- 2) Date and time of receipt of communication: April 6, 2016, 1:15 PM
- 5) Identity of person(s) on whose behalf communication was made:
Horizontal Development LLC
- 6) Identity of persons(s) receiving communication:
Greg Cox and Victor Avina
- 7) Identity of all person(s) present during the communication:
Greg Cox, Victor Avina, Don Schmitz

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

I had an ex parte communication with Mr. Schmitz on April 6 at approximately 1:15 p.m. in my offices, along with my staff member, Victor Avina. Mr. Schmitz noted his client's project consisted of consolidating the oil production facilities currently spread out over the Banning Ranch property to two proposed Oil Remaining Areas (ORA's). He stated the proposed consolidation was consistent with Coastal Act policy 30262(a)2.

He explained Coastal Commission staff and the applicant are still working on the exact configuration of the oil operations within the ORA's. He relayed that Coastal Commission staff were concerned about setbacks from sensitive resources located outside of the ORA's and that the applicant will try and redesign the facility within the ORA to try and maximize setbacks but that the consolidation of a large oilfield into such a compact area was presenting challenges.

He stated that the consolidation would remove significant amounts of existing oil field development scattered around the Banning Ranch property in close proximity to other sensitive resources.

Finally, he clarified that his client, Horizontal Development LLC, was not a part of the application for the Banning Ranch project, but was a completely separate entity, and that their only interest was in a continuing, but consolidated, oil production operation.

4/15/16
Date

Greg Cox
Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, 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. This form may be filed with the Executive Director after the Commission hearing.

**FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATION**

Date and time of communication: December 28, 2015 5:00 pm

Location of communication: Long Beach, CA

Person(s) initiating communication: Chris Yelich & Mike Mohler, –
Newport Banning Ranch LLC

Person(s) receiving communication: Roberto Uranga

Name or description of project: Resubmitted Coastal Development
Permit Application No. 5-15-2097
(Newport Banning Ranch, LLC)
(Originally CDP 05-13-032)

**Detailed substantive description of
content of communication:**

We met at the request of the Applicant, Newport Banning Ranch LLC.

The Applicants Reps presented a general discussion of the November 4, 2015 revised development plan and reductions in impacts -with focus on the areas of Coastal Commissioner input from the October 7 hearing – including oil field cleanup, grading, vegetation, seasonal features, public access, affordable overnight accommodations and revised development areas.

The meeting lasted approximately 1 hour.

12/30/15
Date


Commissioner

FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATION

Date and time of communication: October 22, 2015 6 pm
Location of communication: San Rafael, CA
Person(s) initiating communication: Mike Mohler, George Basye, Chris Yelich – Newport Banning Ranch LLC; Dave Neish
Person(s) receiving communication: Steve Kinsey
Name or description of project: CDP 05-13-032 Newport Banning Ranch
Detailed substantive description of content of communication:

NBR Representatives provided a debriefing of the October 7, 2015 hearing – from their point of view.

There was a discussion of the major areas of discussion from the October 7 hearing – including oil field cleanup, grading, staff ESHA recommendations and Project intensity.

Further, they re-emphasized other recent actions by the Commission that allowed development to occur – despite claims of ESHA. - including the Pebble Beach approval which allowed the removal of Monterey Pine ESHA and the 2014 North San Diego I-5 Corridor approval.

11/2/2015
Date

Steve Kinsey
Commissioner

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Bochev

1) Name or description of project: Banning Launch

2) Date and time of receipt of communication: 10/15/15 2pm

3) Location of communication: Miramar Hotel

(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)

4) Identity of person(s) initiating communication: David Neish

5) Identity of person(s) on whose behalf communication was made: _____

Banning Launch

6) Identity of persons(s) receiving communication: Bochev

7) Identity of all person(s) present during the communication: Mike

Mohler, D. Neish, Bochev

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

attached

10/15/15
Date

[Signature]
Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, 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. This form may be filed with the Executive Director in addition to the oral disclosure.

Met David Neish and Mike Mohrley. They wanted to discuss what my thoughts were for going forward. I reiterated some of the thoughts suggested on the dais, that is, less density, conforming to the ESHA areas, less grading, etc. They were very open to ideas and were hoping to work closely with Dr. Lester and staff over the next 90 days to come up with a more imaginative project that shaped itself to the land rather than vice versa.

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Greg Cox

- 1) Name or description of project:
Newport Banning Ranch
- 2) Date and time of receipt of communication: February 17, 2016 at 10:30 a.m.
- 3) Location of communication: 1515 Monrovia Ave, Newport Beach, CA 92663
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication:
Terry Welsh
- 5) Identity of person(s) on whose behalf communication was made:
Banning Ranch Conservancy
- 6) Identity of persons(s) receiving communication:
Victor Avina
- 7) Identity of all person(s) present during the communication:
Terry Welsh, President, Banning Ranch Conservancy
Steve Ray, Executive Director, Banning Ranch Conservancy
Sylvere Valentin, California Cultural Resource Preservation Alliance

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

My staff member, Victor Avina, was given a tour around the outskirts of the proposed project property by members of the Banning Ranch Conservancy and they were accompanied by a representative of the CA Cultural Resource Preservation Alliance. They discussed the oil-producing history of the land, the few oil wells that are still in operation and some of the history of the project before the Coastal Commission. They discussed the size of the property and the footprint of the proposed project. Messrs. Welsh and Ray discussed the biological importance of the property, including the presence of ESHA and vernal pools scattered throughout the property. Mr. Valentin discussed the cultural resources found on the property, including three archaeological sites that would be affected by the proposed project.

2/24/16
Date

Greg Cox
Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, 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. This form may be filed with the Executive Director in addition to the oral disclosure.

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Mary Luevano

- 1) Name or description of project: Newport Banning Ranch
- 2) Date and time of receipt of communication: January 29, 2016, 11:00am
- 3) Location of communication: by phone
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication: Dorothy Kraus
- 5) Identity of person(s) on whose behalf communication was made: Dorothy Kraus, Ginny Lombardi, Tom Schottmiller, Wendy Leece

-
- 6) Identity of persons(s) receiving communication: Mary Luevano
 - 7) Identity of all person(s) present during the communication: Dorothy Kraus, Newport Beach Ginny Lombardi, Newport Beach, Tom Schottmiller, Newport Beach

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

Participants are all residents of Newport Beach or Costa Mesa who live near the proposed project. They have formed a coalition of concerned residents from NB, HB and Costa Mesa, formed to give the people a voice in the process.

They discussed the human impacts of the Banning Ranch project including:

Three schools (community college, elementary and high school) and other businesses adjacent to the property.

Significant health and safety impacts, 10 years of project development is a big concern
Huge project that will have an impact on quality of life
Focus in on Coastal Act will make them happy
Perfect world there would be no project, but best case would be 11 acre project that CCC staff has indicated is possible, keep as least intrusive as possible
People in this project don't have a voice
Their mission is different than Banning Ranch Conservancy's position

Residents have attended hearings of many govt bodies, hired a consultant to comment on the EIR, ended up with no protection, continue to do research, have met with all relevant govt agencies.

Residents asked questions about the conditions included in the Coastal Commission staff reports, how they are written, what the process is for inclusion. They also asked questions about how ESHA is determined (at which point I suggested they talk directly to staff)

Last item discussed was that the residents want to voice their support for keeping Charles Lester on as ED

February 18, 2016
Date



Signature of Commissioner

EX PARTE COMMUNICATION
DISCLOSURES

5-15-2097 EXHIBIT 15

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Mary Luevano

- 1) Name or description of project: Newport Banning Ranch 5-13-032 (Newport Banning Ranch, LLC, Newport Beach)
- 2) Date and time of receipt of communication: Dec. 10, 2015 at 4pm
- 3) Location of communication: Portola Plaza, Monterey
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication: Terry Welsh
- 5) Identity of person(s) on whose behalf communication was made: Terry Welsh, Steve Ray/Banning Ranch Conservancy
- 6) Identity of persons(s) receiving communication: Mary Luevano
- 7) Identity of all person(s) present during the communication: Terry Welsh, Steve Ray, Commissioners McClure, Vargas, Mitchell and Luevano

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

1. General round table open-ended discussion of impressions of Oct. hearing and how things might progress moving forward.
2. Review of the Banning Ranch Conservancy's goal of preserving the entire property, but that if a development is to be approved, it is in our interest to see that the potential development be consistent with the Coastal Act.
3. Discussion of merits of cleaning up oil field while finding a project that is consistent with the Coastal Act.
4. A brief and general mentioning that NBR has publicly released a scaled-back project, and that CCC staff conducted a thorough site visit on Nov 12 and that the ESHA map will be revised.
5. Discussion of actually measuring the amount of soil contamination ("ground-truthing") before determining the extent of soil excavation and grading necessary. Discussion of the differences of open space clean-up standards vs residential clean-up standards.
6. Discussion of the meeting between NBR and BRC on 10-20-15. Future meetings are desired and BRC has sent two letters to NBR asking for additional meetings in the interim since 10-20-15. The second letter asked for a three-way meeting with staff, NBR and BRC. BRC is awaiting response and will follow up.
7. Discussion of the importance of "trusting your eyes" while also understanding and accepting the validity of the extensive scientific surveys that have been conducted and that describe wildlife and habitat areas on Banning Ranch.

8. Discussion of the idea of NBR withdrawing the CDP application and returning in March in order to give the CCC staff and NBR more time to find a project consistent with the Coastal Act.
9. Final closing comment on the ability of commissioners to deny projects, and how this should happen if there are impacts to EHSA and wetlands and how this must happen if the project is inconsistent with the Coastal Act.

December 16, 2015

Date

¹Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, 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. This form may be filed with the Executive Director in addition to the oral disclosure.

Ex Parte meeting with commissioners McClure, Vargas, Mitchell and Luevano

12-10-15 Monterey [Application No. 5-13-032 \(Newport Banning Ranch, LLC, Newport Beach\)](#)

Banning Ranch Conservancy (BRC): Terry Welsh, Steve Ray

1. General round table open-ended discussion of impressions of Oct. hearing and how things might progress moving forward.
2. Review of the Banning Ranch Conservancy's goal of preserving the entire property, but that if a development is to be approved, it is in our interest to see that the potential development be consistent with the Coastal Act.
3. Discussion of merits of cleaning up oil field while finding a project that is consistent with the Coastal Act.
4. A brief and general mentioning that NBR has publicly released a scaled-back project, and that CCC staff conducted a thorough site visit on Nov 12 and that the ESHA map will be revised.
5. Discussion of actually measuring the amount of soil contamination ("ground-truthing") before determining the extent of soil excavation and grading necessary. Discussion of the differences of open space clean-up standards vs residential clean-up standards.
6. Discussion of the meeting between NBR and BRC on 10-20-15. Future meetings are desired and BRC has sent two letters to NBR asking for additional meetings in the interim since 10-20-15. The second letter asked for a three-way meeting with staff, NBR and BRC. BRC is awaiting response and will follow up.
7. Discussion of the importance of "trusting your eyes" while also understanding and accepting the validity of the extensive scientific surveys that have been conducted and that describe wildlife and habitat areas on Banning Ranch.
8. Discussion of the idea of NBR withdrawing the CDP application and returning in March in order to give the CCC staff and NBR more time to find a project consistent with the Coastal Act.
9. Final closing comment on the ability of commissioners to deny projects, and how this should happen if there are impacts to ESHA and wetlands and how this must happen if the project is inconsistent with the Coastal Act.

From: **Terry Welsh** <terrymwelsh@hotmail.com>

Date: Sun, Dec 13, 2015 at 11:25 PM

Subject: Ex parte summary

To: "mmclureccc@co.del-norte.ca.us" <mmclureccc@co.del-norte.ca.us>

Martha,

Thank you for taking the time Thursday, 12-10-15, to speak with Steve Ray and myself. I hope you found our discussion educational and that we were able to provide you with the local environmental community's perspective and concerns over Coastal Act inconsistencies with the proposed Banning Ranch project.

I have attached a summary of the discussion. If I left out any major point of discussion, or if my summary is not clear, please let me know.

I also hope that you might consider a follow up discussion early next year before the expected January hearing. There will be some new information to discuss:

1) We have, since last Thursday, followed up again with the applicant and are hoping that they will agree to meeting. It is our intention to focus our discussion with the applicant on a project that is consistent with the Coastal Act. We believe there is common ground on this.

EX PARTE COMMUNICATION
DISCLOSURES

5-15-2097 EXHIBIT 15

2) The staff report on the proposed project is expected in a week or so and with this there will be a revised ESHA map. The Banning Ranch Conservancy will be closely reviewing the new staff report and it will be beneficial for the commissioners to understand the environmental community's perspective on this report as well as its findings and recommendations.

Thank you again for your time, and don't hesitate to contact me if you have any questions.

Terry

[714-719-2148](tel:714-719-2148)



RESORT VIEW FROM PACIFIC COAST HIGHWAY



RESORT ARRIVAL



FAMILY VILLAGE NORTH - GRAND ALLEE



URBAN COLONY - VILLAGE GREEN



URBAN COLONY - RETAIL

FORMA

Fusco Engineering

Robert Hidey Architects

RESIDENTIAL VIEWS

NEWPORT BANNING RANCH

Newport Banning Ranch, LLC

7881 Irvine Center Drive, Suite 200, Irvine, CA 92618 Telephone 949.452.1057 Fax 949.452.1058 © 2008 Robert Hidey Architects All Rights Reserved

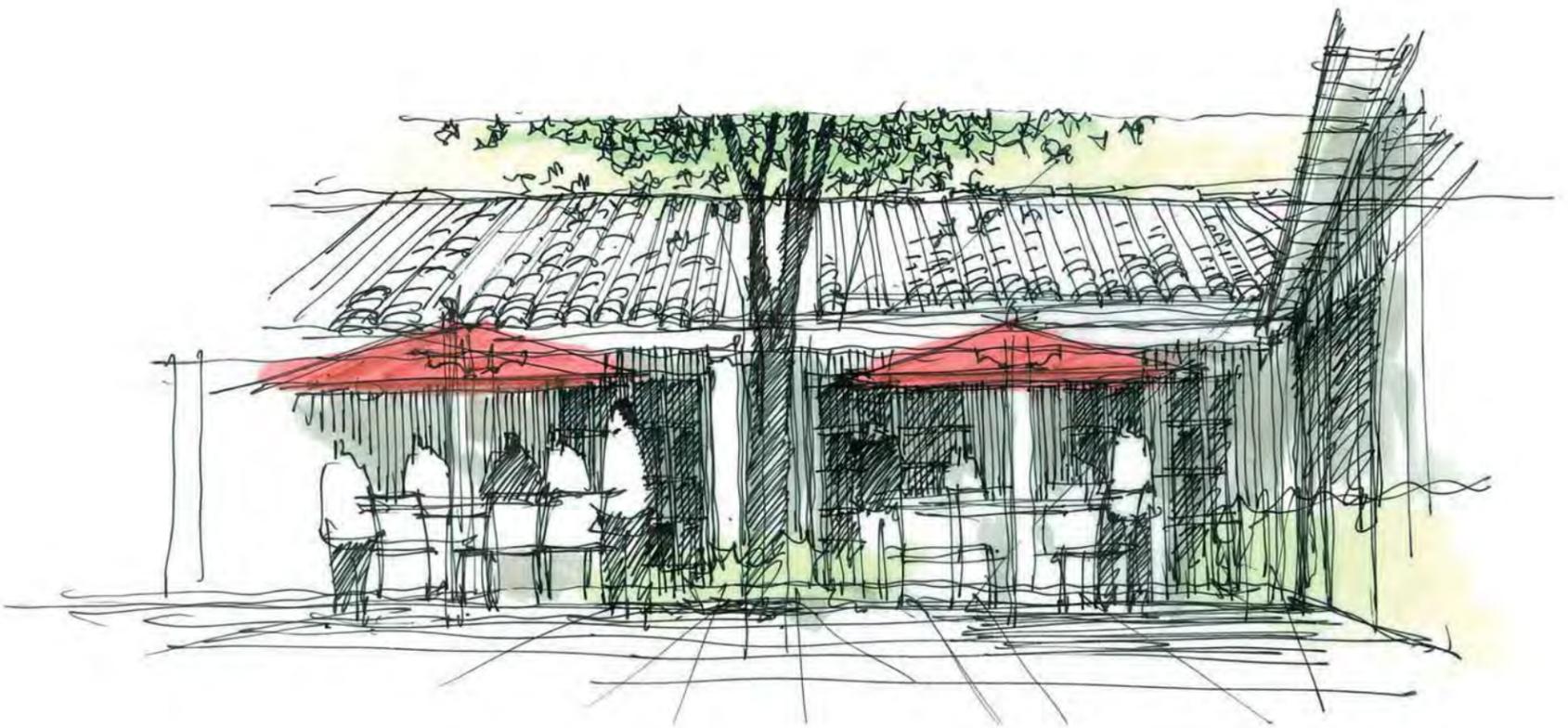
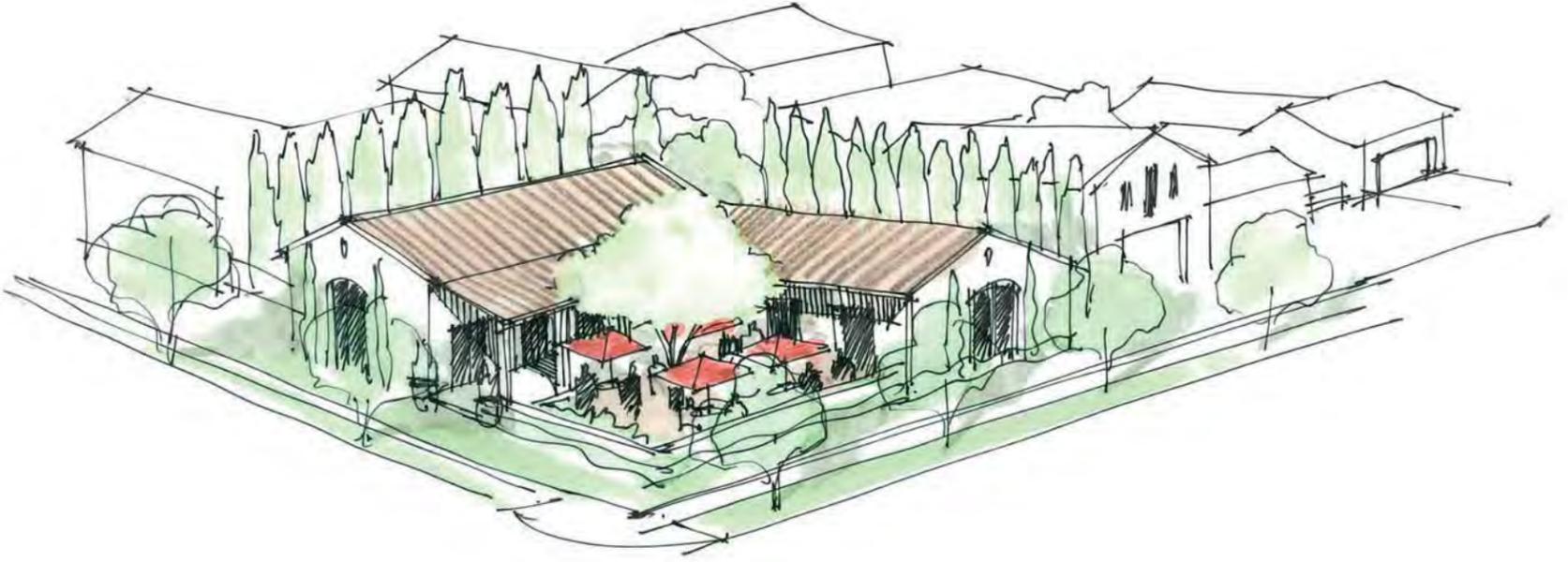
NEWPORT BEACH, CA

PROJECT PLANS

PROJECT: 08018.01 - 12/09/2008

5-15-2097 EXHIBIT 16

Page 2 of 18



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NEIGHBORHOOD STORE

NEWPORT BANNING RANCH

Newport Banning Ranch, LLC

NEWPORT BEACH, CA
PROJECT PLANS

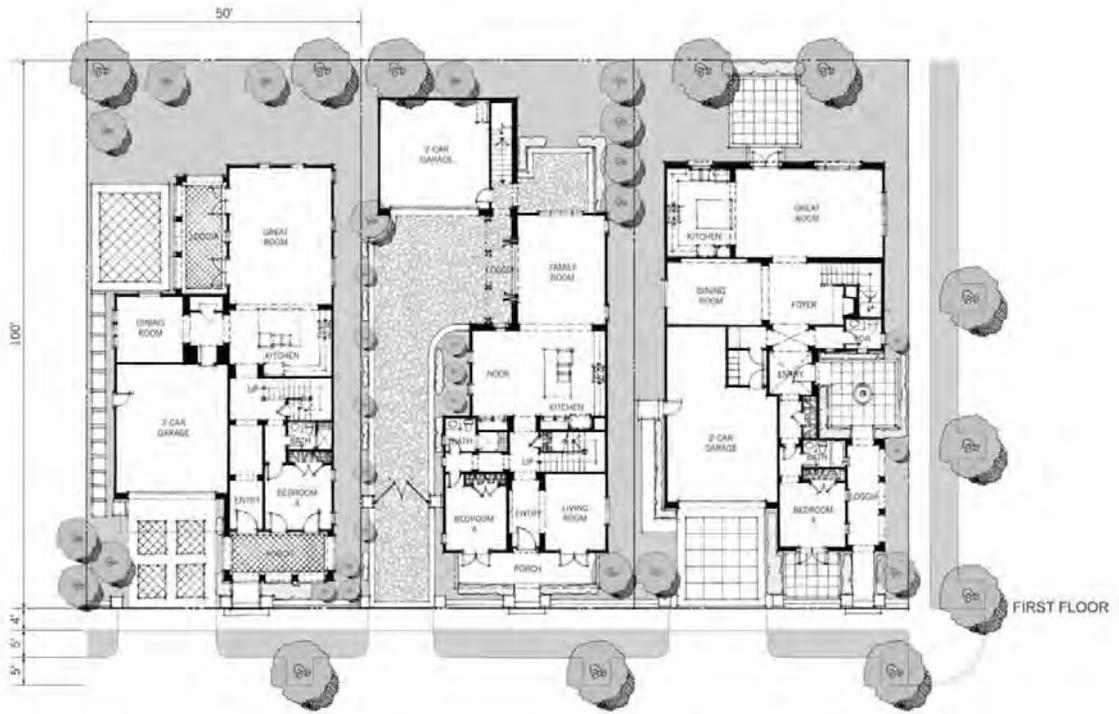
5-15-2097 EXHIBIT 16

Page 3 of 18

PROJECT: 08018.03 - 04/01/2009



SECOND FLOOR



FIRST FLOOR



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TRADITIONAL HOMES



NEWPORT BANNING RANCH, LLC
NEWPORT BEACH, CA

Newport Banning Ranch, LLC
PROJECT NO. 2014-02 03/28/16



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COASTAL HOMES



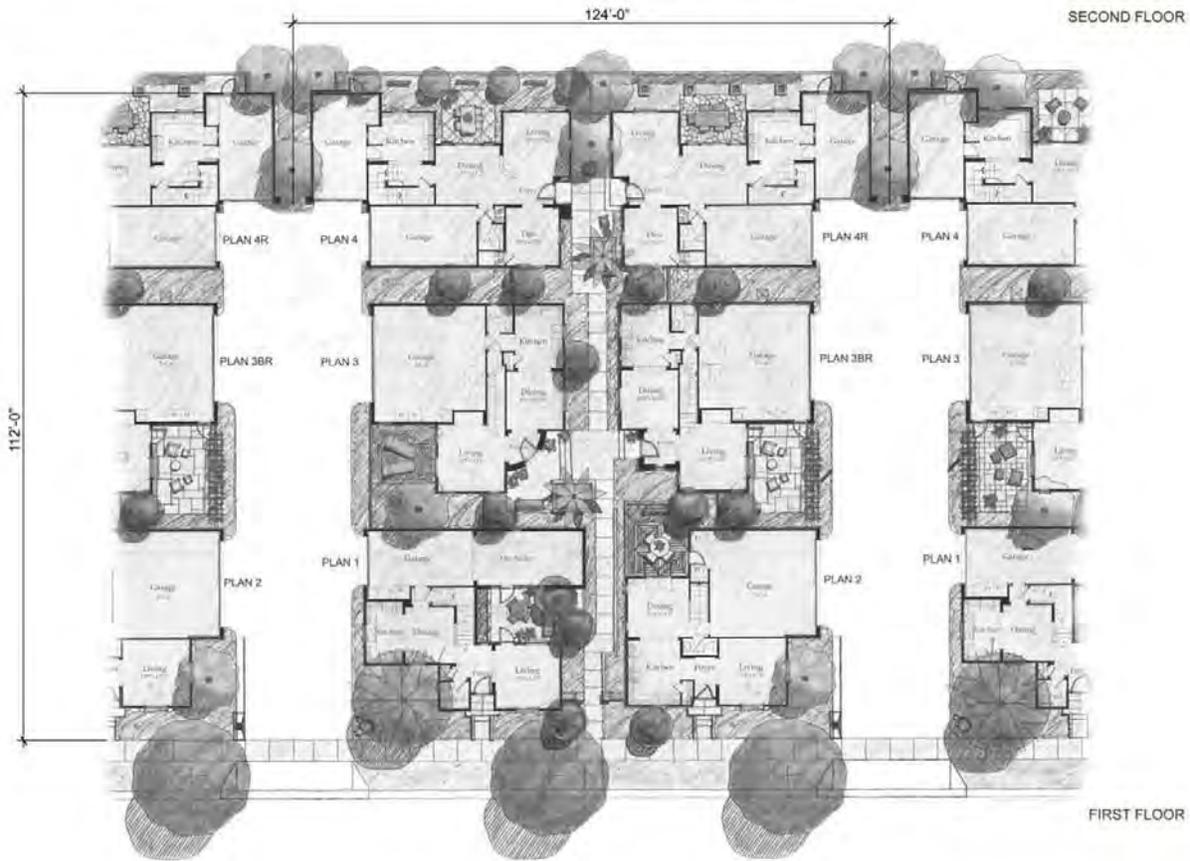
NEWPORT BANNING RANCH
 Newport Banning Ranch, LLC
 PROJECT NO. 2015-02 03/26/15

PROJECT PLANS 15-2097 EXHIBIT 16

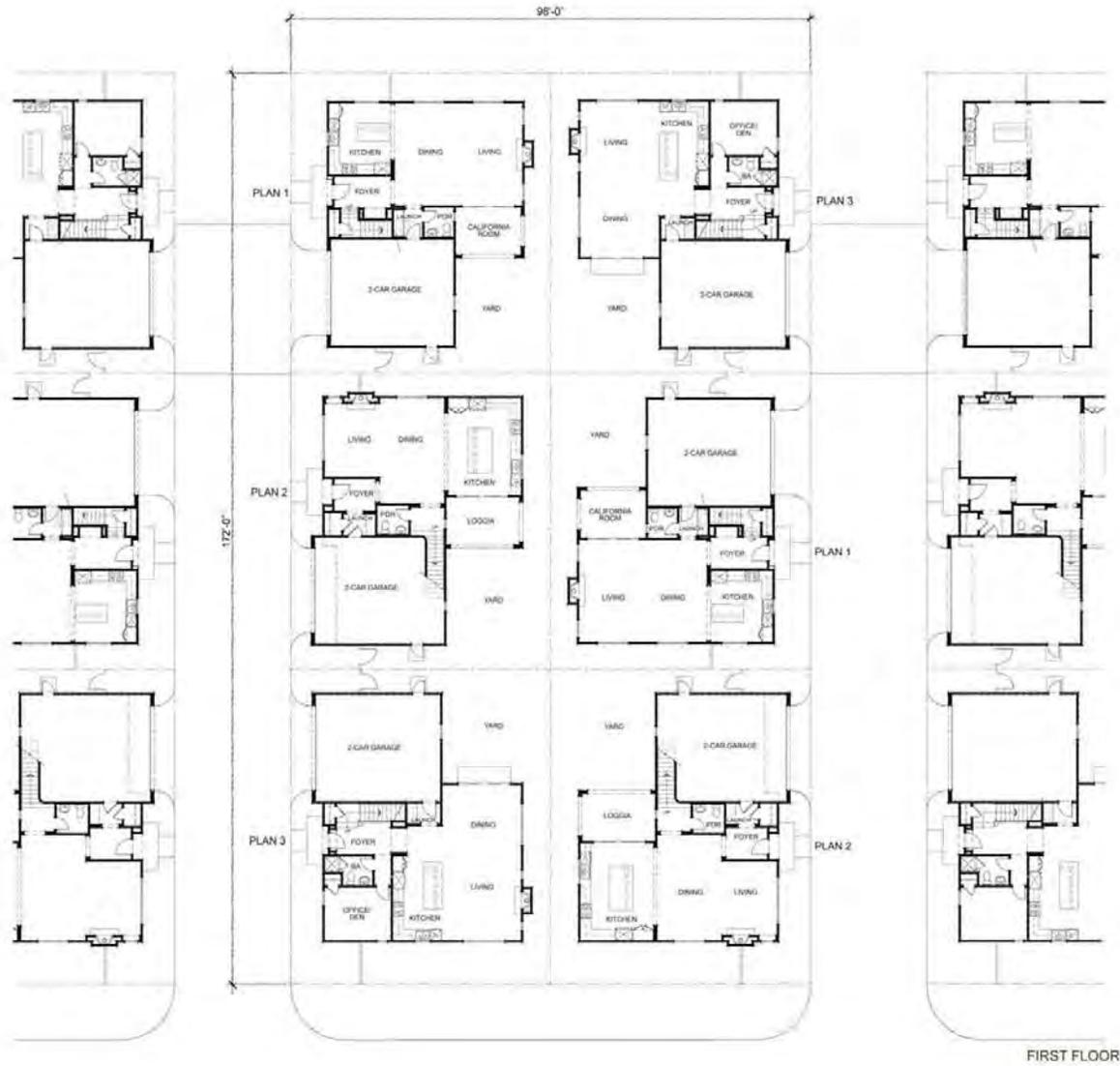


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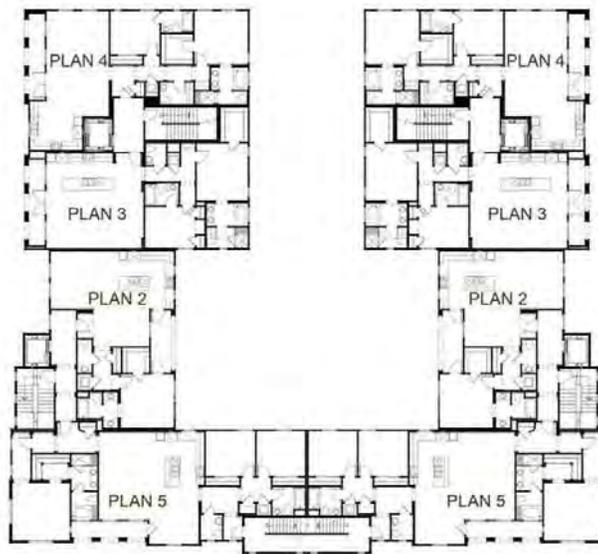
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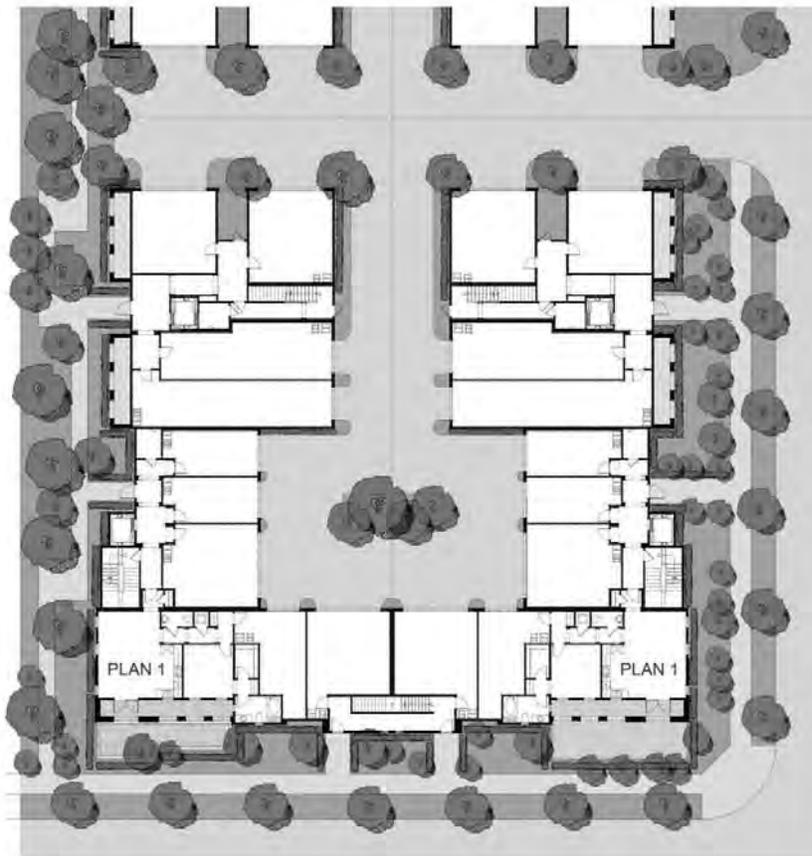
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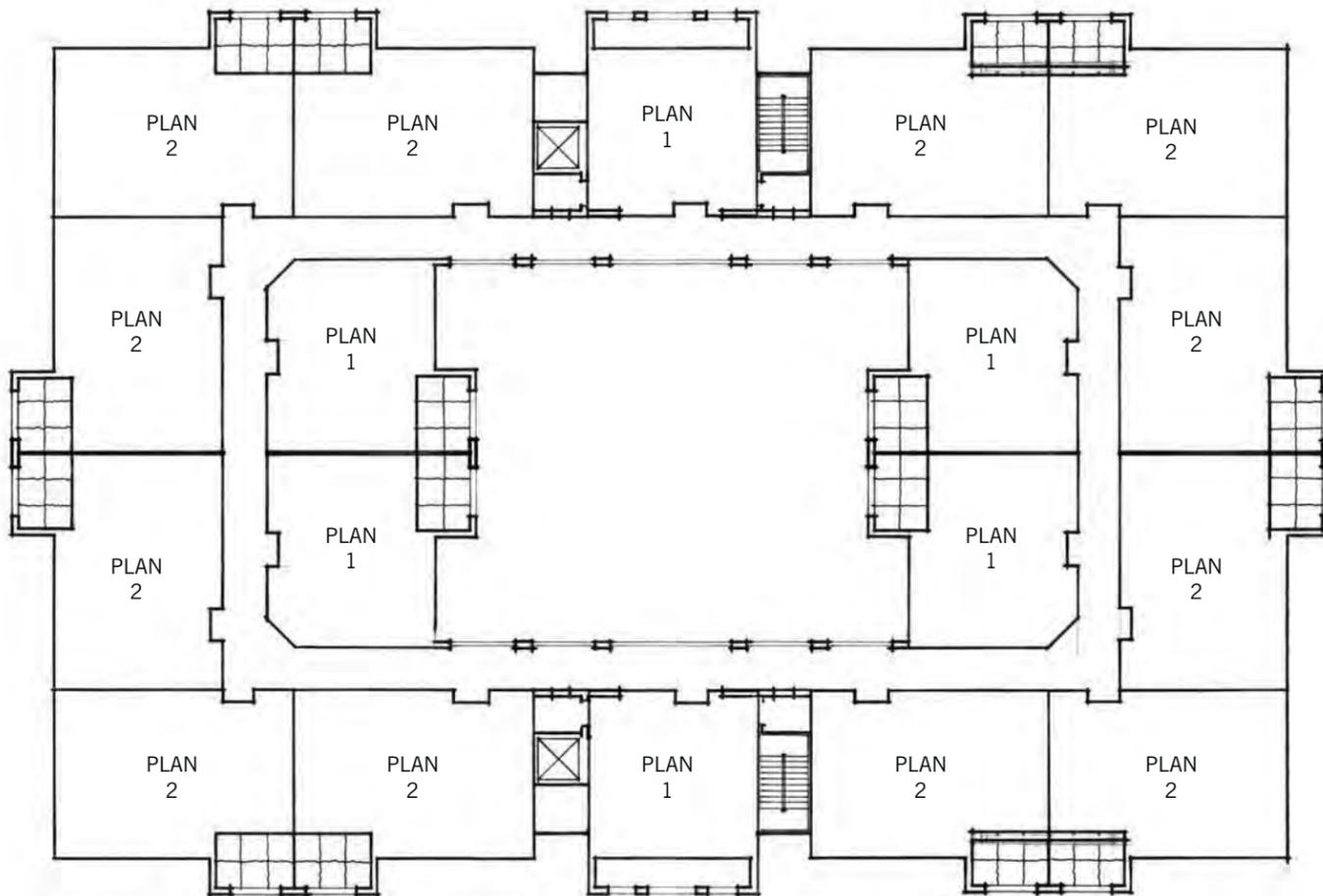
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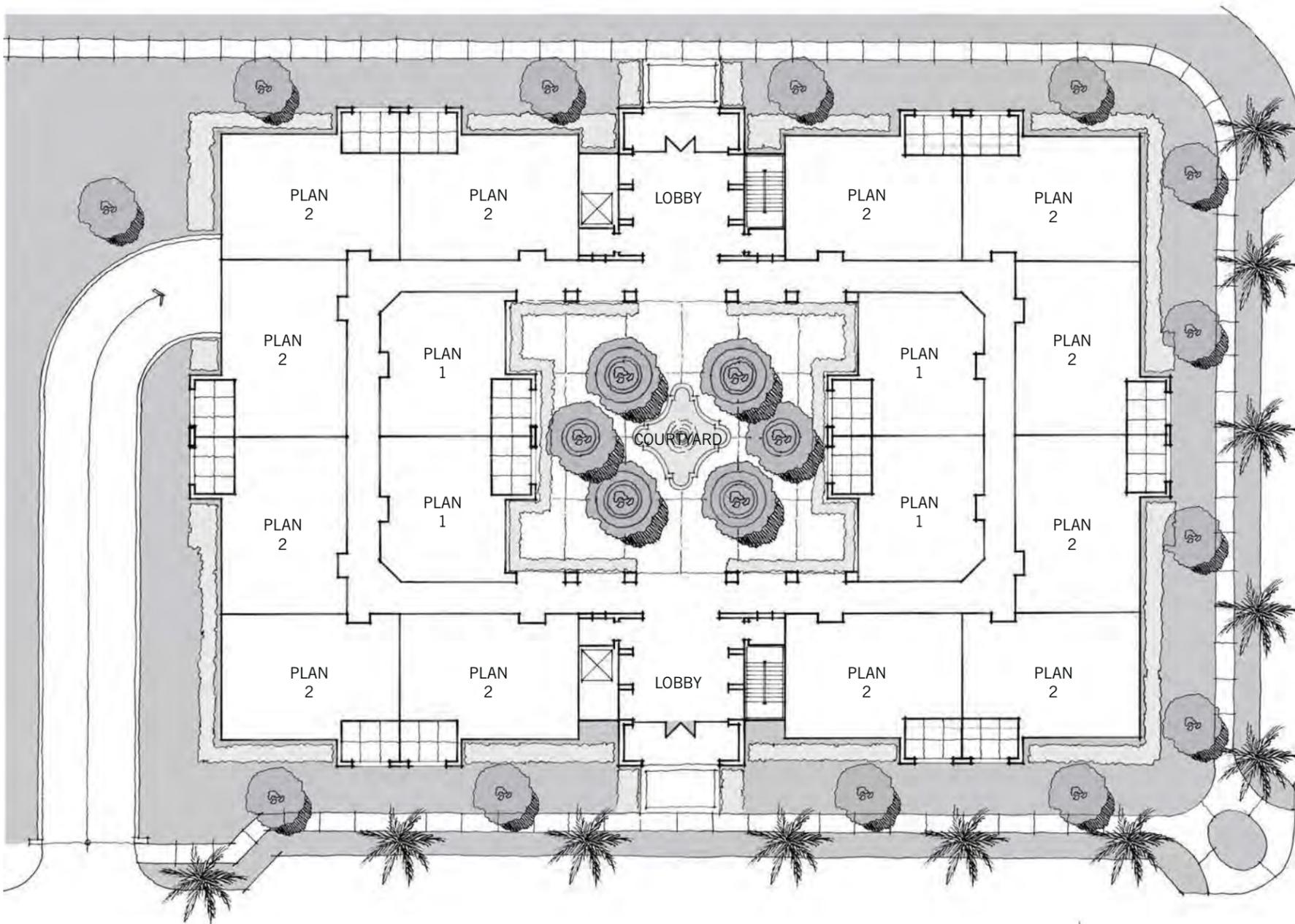
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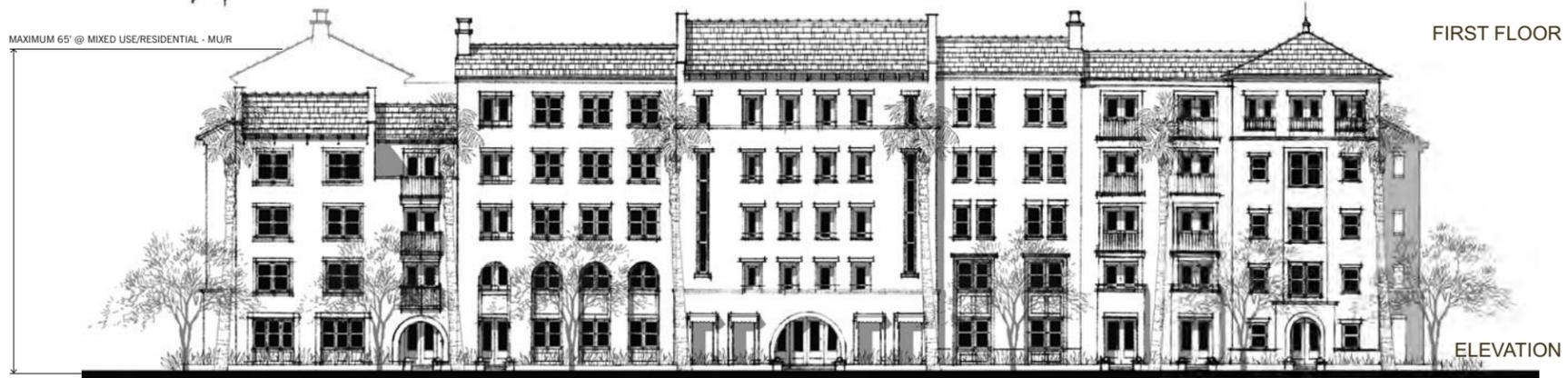
FIRST FLOOR



TYPICAL FLOOR ABOVE



FIRST FLOOR



ELEVATION

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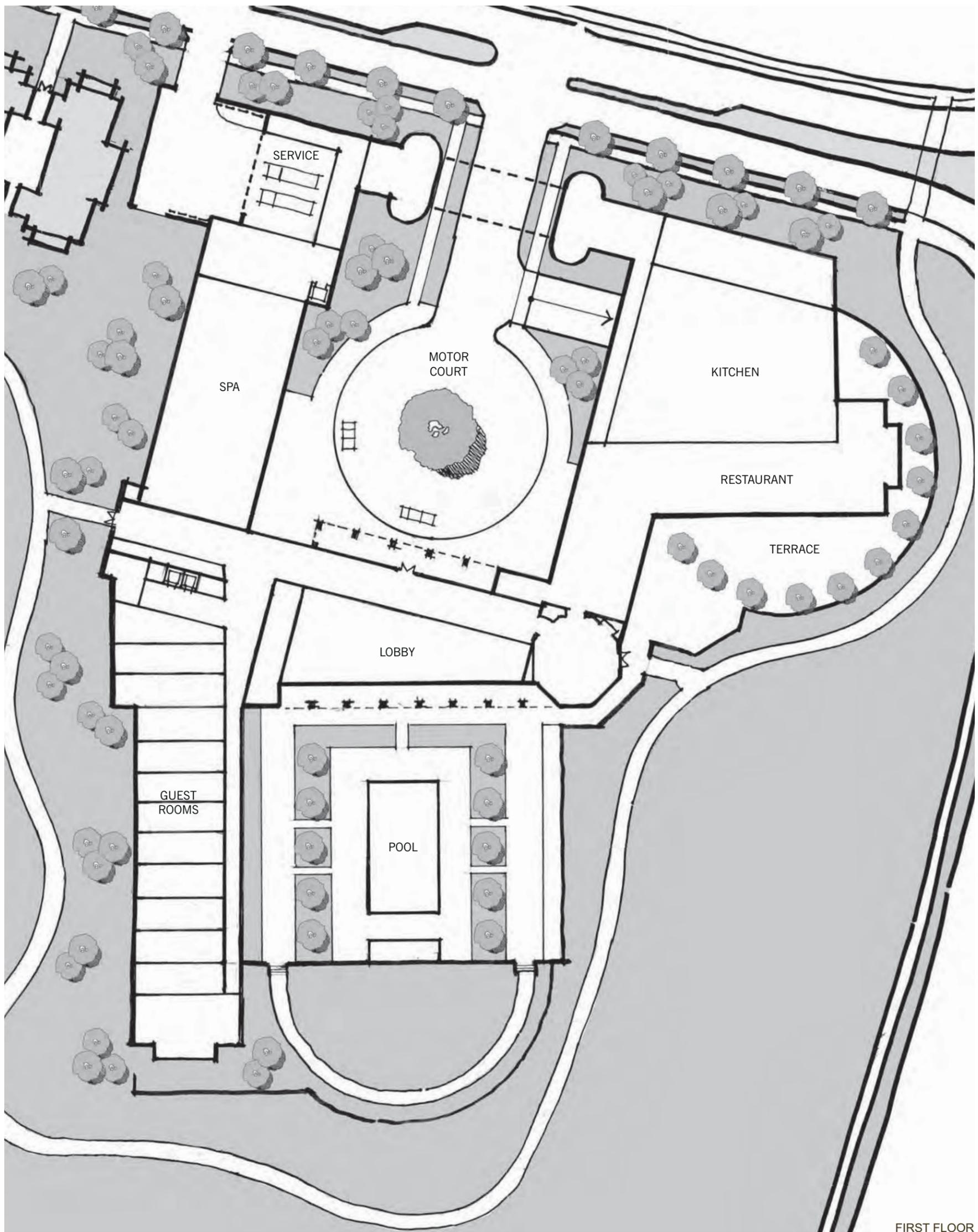
URBAN FLATS

NEWPORT BANNING RANCH



Newport Banning Ranch, LLC

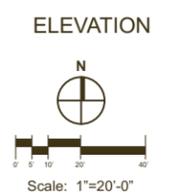
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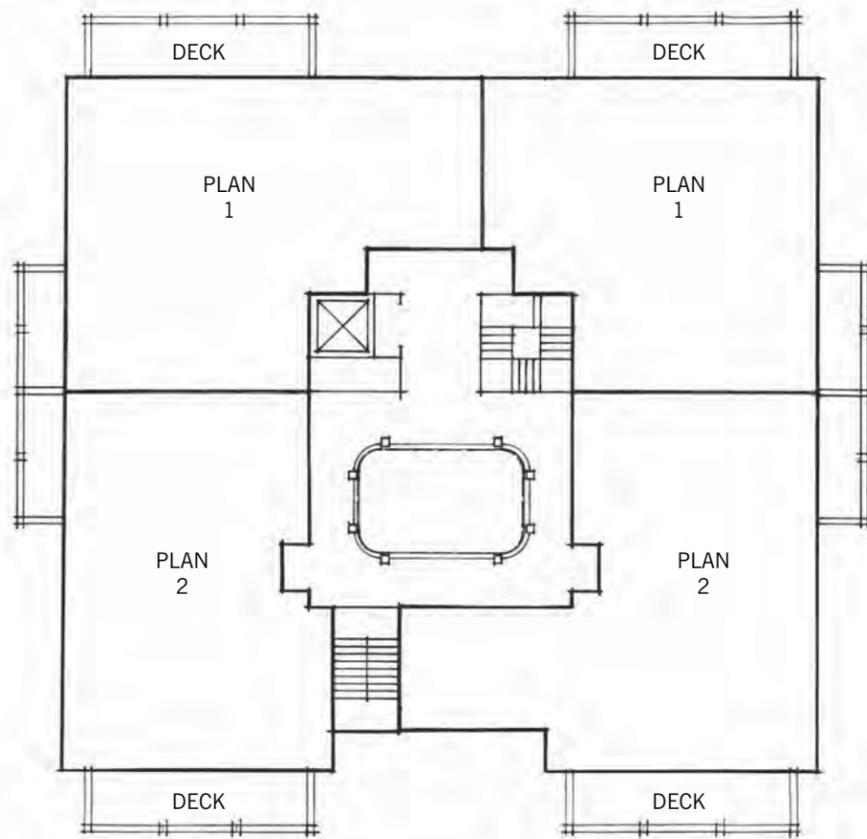
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 NEWPORT BANNING RANCH

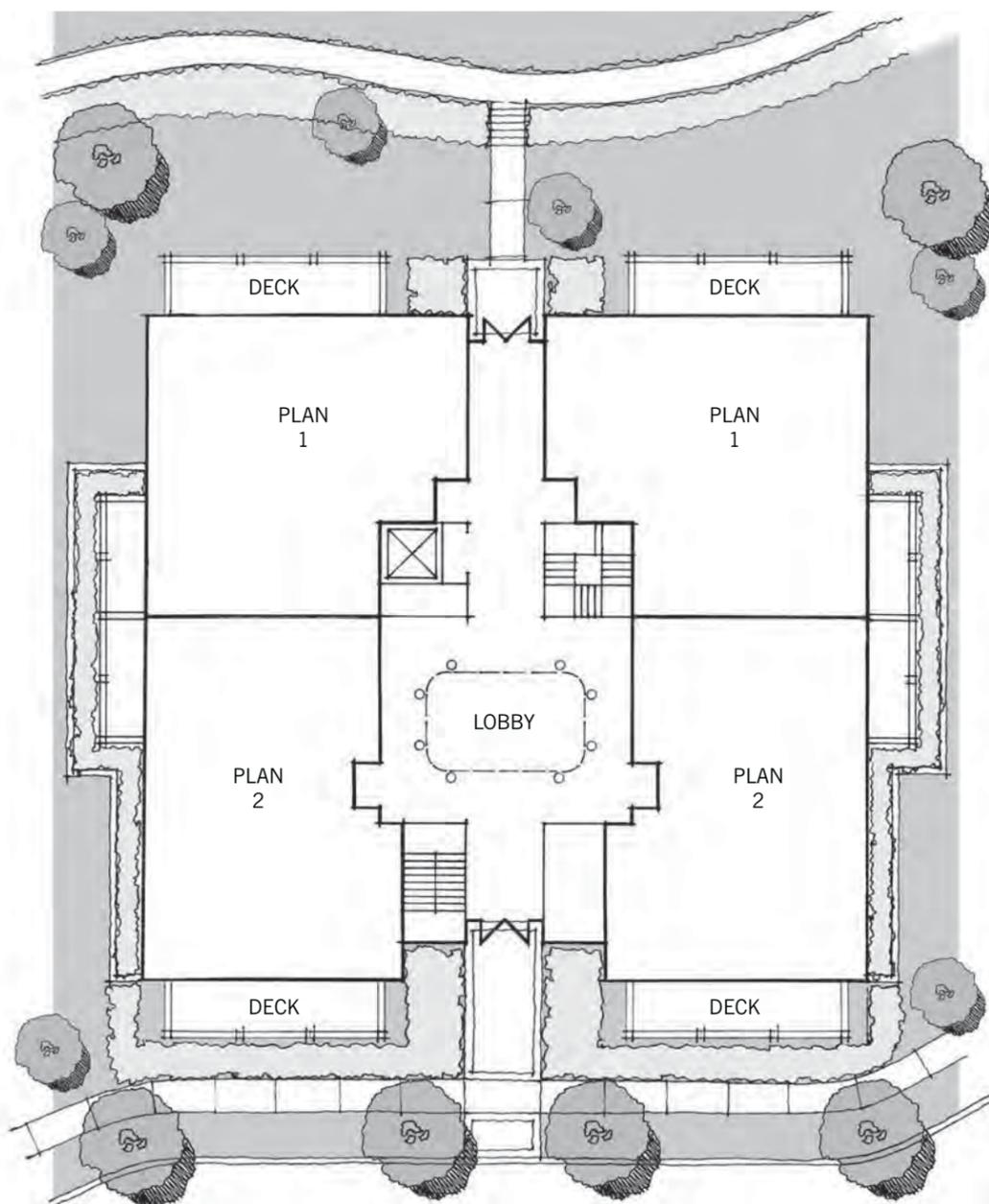
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TYPICAL SECOND FLOOR



FIRST FLOOR



ELEVATION

FORMA

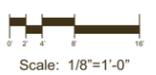
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RESORT FLATS

NEWPORT BANNING RANCH

Newport Banning Ranch, LLC



Newport Banning Ranch

Product Type Building Heights

Low Density Residential



Product Type Name: Traditional Homes
Maximum Allowed Height: 36'



Product Type Name: Coastal Homes
Maximum Allowed Height: 36'

Newport Banning Ranch

Product Type Building Heights

Low Medium Density Residential



Product Type Name: Beach Cottages
Maximum Allowed Height: 45'



Product Type Name: Motor Court Homes
Maximum Allowed Height: 45'



Product Type Name: Garden Court Homes
Maximum Allowed Height: 45'

Newport Banning Ranch

Product Type Building Heights

Medium Density Residential



Product Type Name: Village Flats
Maximum Allowed Height: 45'

Newport Banning Ranch

Product Type Building Heights

Mixed Use



Product Type Name: Urban Lofts
Maximum Allowed Height: 60'

Newport Banning Ranch

Product Type Building Heights

Resort Residential



Product Type Name:
Maximum Allowed Height:

Resort Flats
50'

Newport Banning Ranch

Product Type Building Heights

Resort



Product Type Name:
Maximum Allowed Height:

Resort Inn
50'

Santa Ana Regional Water Quality Control Board

December 15, 2015

Mr. Michel Klancher
Aera Energy LLC
3030 Saturn Street, Suite 101
Brea, CA 92821
MJKlancher@aeraenergy.com

COMMENTS ON REVISED REMEDIAL ACTION PLAN – NEWPORT BANNING RANCH OIL FIELD ABANDONMENT, 1080 WEST 17TH STREET, COSTA MESA, ORANGE COUNTY, CALIFORNIA

Dear Mr. Klancher:

Regional Board Staff (Board staff) has reviewed the Revised Remedial Action Plan (RAP) for Newport Banning Ranch (Site), dated September 16, 2015, and addendum to the RAP dated November 5, 2015 which were prepared and submitted on behalf of the Newport Banning Ranch LLC (NBRLLC) by Geosyntec Consultants, Inc. (Geosyntec).

The Site is currently a 401-acre oil and natural gas production facility located east of the mouth of the Santa Ana River, near the Huntington Beach – Newport Beach City boundary in Orange County, California. The Site is topographically diverse, with the eastern portion of the Site transitioning from coastal bluff “Upland Area” to the “Lowland Area” along the western portion of the Site. Several erosional arroyos carry surface water from the developed urban areas of Costa Mesa to the Lowland Area adjacent to the Santa Ana River.

The purpose of the oil field abandonment and revised RAP is for decommissioning and abandonment of oil operations located outside of the future oil consolidation areas, also referred to as the oil remainder areas on the Site. The abandonment project and establishment of the oil field remainder drill sites are contingent upon approval of the larger Newport Banning Ranch development project, which is currently under consideration by the California Coastal Commission (CCC). The revised RAP presents the remediation scope, processes, methods and controls that are proposed to be used to implement the remediation of historic oil field impacts at the Site.

Since the initial submittal of the first draft of the RAP, dated February 18, 2015, Board staff has made several inspections of the Site, and has maintained communication with you and your consultants. As an outcome of these communications, we provided technical comments regarding soil cleanup levels and reuse criteria for Upland Area Residential, Open Space, Park/Trails and Streets. Our comments have been

discussed, and the RAP has been revised accordingly, thereby increasing the level of protection that will be put in place for sensitive resource areas within the Site.

Background

Over the 70+ years of oil production at the Site, wells were drilled and abandoned, or replaced, in order to produce the oil as efficiently as possible. Throughout this period, more than 475 locations were used (for varying periods of time) as oil well drilling and production pads. The oil operations currently produce over 180 barrels of oil per day from approximately 85 wells, located in both the Lowland and Upland Areas of the property. Various features, structures and equipment that are or were used for the production of oil and natural gas are present across the Site. These include:

- a) Pumping units;
- b) Pipelines;
- c) Power poles and utility infrastructure;
- d) Facility tanks, vessels, pumps, and other equipment;
- e) Production offices, buildings, garages, sheds and covers;
- f) Facility foundations, drains, and pipes;
- g) Sumps and fluid containment areas; and
- h) Asphaltic and crude oil roads, road base materials, gravels and other base materials.

The revised RAP indicates that Geosyntec identified a total of 27 areas of potential environmental concern (PECs) at the Site. Their estimate was based on Phase I and Phase II Environmental Site Assessments and investigations that had been performed at the Site. The PECs are shown in Figure 5, and are listed in Table 1 of the revised RAP. Site investigations performed at the PECs and additional information regarding each of the PECs are summarized and included in Appendix A, and in the documents listed in Appendix E. The investigations indicated that impacts existed at 11 of the 27 identified PECs. The revised RAP was developed to manage environmental impacts at the following 11 of the 27 PECs:

- PEC01, Maintenance Shop / Warehouse;
- PEC02, Tank Farm Drill Site (TFDS), limited to only the TFDS Sump and soil excavations outside the TFDS;
- PEC03, Air Compressor Plant;
- PEC04, Steam Generation Plant;
- PEC06, City of Newport Beach Tank Farm (Abandoned);
- PEC08, Former Sump/Clarifier;
- PEC09, Utility Shack Transformer Storage;
- PEC10, Approximate Location of Edison Transformers;
- PEC15, Gasoline Underground Storage Tank;
- PEC25, Oil Well Pads (PEC25A) and Linear Features [roadways (PEC25B) and pipelines (PEC25C)]; and

- PEC26, Drilling Mud Sumps /Oil Well Sumps.

According to Geosyntec, to further define the boundaries and limits of the required abandonment and remediation (A&R), technical staff will be assessing potential worst case impact areas by performing a detailed on-the-ground review. This review will be conducted on foot, using predominantly visual methods, but may be supplemented with soil sampling and laboratory analyses (if needed) to evaluate if the A&R work is in fact necessary in these field reconnaissance areas.

Overview of the A&R Approach

The abandonment and remediation of the historic oil field operations areas will be a complex and costly undertaking. While the proposed abandonment and remediation approach is comprehensive, its implementation has been designed to be a targeted and efficient plan that seeks to reduce the overall impacts of the work to the surrounding community and environment. The approach for the Site was developed using the following guiding strategies:

- Recycle or reuse salvageable materials.
- Remediate soil on-site, whenever feasible, using natural bioremediation processes.
- Reuse remediated soil and recycled materials [(e.g., concrete and asphalt-like-material (ALM))] by incorporating it into the fill during development of the graded areas whenever possible.
- Reduce off-site traffic, hauling, and disposal.
- Work in collaboration with appropriate regulatory staff, stakeholders and resource agencies to limit disturbance to desirable on-site vegetation and avian species.

Geosyntec has indicated that the oil well abandonment and consolidation process will commence upon receipt of the necessary agency approvals, and oil operations across the Site will begin a phased cessation (except for those operating in the oil consolidation areas). During this same time period, plugging and abandoning of the remaining active/potentially active Lowland and Upland Area oil wells will commence, together with demolishing and/or removing/recycling the oil wellhead equipment, oil pipelines, utility poles, and other related oil production equipment, buildings, debris, and oil field access road surface materials. These abandonment efforts will include full-time environmental oversight, field observations, and soil testing (all shall be conducted during the removal of the oil facilities, and after the oil wells have been abandoned). These actions will seek to confirm whether the soil immediately adjacent to the oil wells and below oil facilities meets the approved clean-up criteria or requires remediation.

The remediation process involves the removal and on-site bioremediation of: (i) impacted soil encountered during the well abandonment process, (ii) impacted soil generated from full field remediation of known impacted areas, and (iii) impacted soil encountered during development area grading. Once the impacted soil has been bioremediated and samples of the remediated soils have been tested to verify that it

meets the approved clean-up criteria, the clean soil will be reused and placed in the borrow site excavation in the Upland Area of the Site, no shallower than 10 feet from final grade elevations. In addition, ALM from road surfaces and concrete from oil field operations and facilities will be removed, processed on-site, and placed in the deep fill areas no shallower than 15-20 feet from final grade elevations, in accordance with the geotechnical specifications of the project. The clean soil from the borrow site excavation will be used as backfill for the impacted area excavations in the Lowland and Upland Areas, and as a final cover over the ALM, concrete and soils placed within the site.

A comprehensive discussion of the Borrow/Placement Areas and Bioremediation Areas is provided on pages 24 through 26 of the revised RAP.

Cleanup Levels

The proposed cleanup levels for the remediation project are provided in Table 5 of the addendum to the RAP. The cleanup levels vary for each constituent of concern, and are based on a multi-depth approach, considering depth below final grade and final Site use (residential or open space/parks/streets). As indicated on Table 5, remediated soil meeting the agency-approved cleanup levels will be placed in only the deep fill areas located in the Upland Area of the Site, and no shallower than 10 feet from final grade elevations. Processed ALM and concrete will also be placed in only the Upland deep fill areas, and no shallower than 15-20 feet from final grade elevations. These materials will be placed according to appropriate geotechnical criteria as specified for the development, which will be established separately. No remediated soil will be used to backfill impacted area excavations in the Lowland.

Board staff comments

We concur with the revised RAP, with the following conditions:

- 1) Implementation of the revised RAP shall not take place until Regional Board staff has issued a Water Quality Certification under Section 401 of the federal Clean Water Act (401 Water Quality Standards Certification) and the U.S. Army Corps of Engineers has issued a Permit under Section 404 of the federal Clean Water Act for the 401-acre Site.
- 2) Implementation of the revised RAP shall not take place until the CCC has approved the NBRLLC's application, and has issued a Costal Development Permit (CDP) for an Open Space and Development Plan on 384 acres of the 401-acre Site.
- 3) During the implementation of the revised RAP, the scope of remediation activities has the potential to change, i.e., new areas of potential impacts to soil from petroleum hydrocarbons or other chemicals of concern may be identified. Therefore, Geosyntec will be responsible for immediately providing Regional Board staff with the global positioning system (GPS) coordinates of the new area(s), and clearly

identifying the proposed scope of investigation and remediation activities for the newly observed PECs.

- 4) Figure (7) Remediation Planning Areas (dated 11/20/2015) may continue to be updated as a result of continuing discussions with NBR and the Commission's decision by fitting these activities within the CCC's approved development footprint in order to be away from sensitive resource areas.

These areas include:

- Borrow/Placement
 - Clean Soil Flip
 - Concrete Processing Area
 - Equipment Parking and Storage
 - Equipment/Materials Salvage Area
 - Soil In/Bioremediation
 - Soil Test Staging/Stockpiling Area
- 5) Clean borrow soil shall be used as backfill in the lowlands unless CCC changes to the development footprint or Soil Remediation Planning Areas prevent sufficient borrow soil from being available. In that case, clean treated soil, meeting the cleanup levels provided in Table 5, may be used.
 - 6) If site specific soil testing indicates that a PEC area is free of petroleum hydrocarbons, minimize further soil disturbance in that area. For example, PEC-26, historic sumps areas.
 - 7) If some elements of the RAP are changed, with Board staff's concurrence, during the CCC's review and approval, Board staff would require NBR to implement those changes without amendment to the original RAP approval letter.
 - 8) Additionally, mitigation measures outlined in an approved CDP shall be carried out to address impacts to sensitive resources or wetlands that occur during implementation of the RAP.

Weekly Status Reports

According to Geosyntec, upon commencement of abandonment and remediation work, weekly reports of field work activities will be prepared and submitted to Regional Board staff for review. This regular weekly summary status will include:

Photographs, GPS coordinates, approximate volume of impacted soil removed, destination, Haul-Off Stockpile vs. remediation areas, any changes to the approved scope of work in the revised RAP, sample locations with appropriate

explanation/justification, a summary table of the laboratory results for excavation areas and treated stockpile(s).

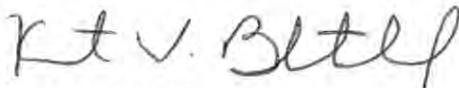
The excavated soils that are to be exported offsite will be transported to an appropriately permitted and licensed treatment, storage and disposal facility for disposal. Manifests will be submitted in the final report.

The excavated soils that are to be used onsite as backfill materials will be surveyed after placement into appropriate "cells," utilizing GPS equipment. The GPS coordinates and survey information for all excavation and treatment areas will be provided as an appendix to the project final report.

Please be advised that, upon completion of the project, the issuance of a no further action letter for the Site will be contingent upon satisfactory completion of all of the tasks as described in the revised RAP, and subject to Regional Board staff's review and approval of the final report.

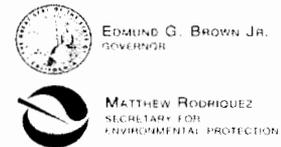
If you have any questions, please contact Kamron Saremi at (951) 782-4303, or by email to kamron.saremi@waterboards.ca.gov, or you may contact Ann Sturdivant, Chief of our Site Cleanup Section, at (951) 782-4904 or ann.sturdivant@waterboards.ca.gov.

Sincerely,



Kurt Berchtold
Executive Officer

cc: Mr. Cassidy Teufel – California Coastal Commission -
Cassidy.Teufel@coastal.ca.gov



Santa Ana Regional Water Quality Control Board

April 25, 2016

Mr. Michael A. Mohler
Newport Banning Ranch, LLC
1300 Quail Street, Suite 100
Newport Beach, CA 92660

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE NEWPORT BANNING RANCH PROJECT, NEWPORT
BEACH, COUNTY OF ORANGE, CALIFORNIA (USACE REFERENCE NO. SPL-
2014-00645-SME) (SARWQCB PROJECT NO. 302014-15)**

Dear Mr. Mohler:

On August 20, 2014, we received from Newport Banning Ranch, LLC (Applicant) an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for a proposed mixed-use development project composed of a natural open space preserve, parklands, clustered development, public roadways, and existing oil facilities that are deemed restricted for future open space use. On January 5, 2016, Regional Board staff received an updated and revised Project description from Fuscoe Engineering, the Applicant's consultant. Acreages for each land use are provided in the Project Description below. The Applicant submitted a filing fee of \$75,071.00, which satisfies the Project fee requirement for consideration of a 401 Certification. This fee amount was determined using the Dredge and Fill Fee Calculator on the State Water Resources Control Board (SWRCB) web site, which is based on the most current iteration of California Code of Regulations, Division 3, Chapter 9, Article 1, Section 2200 (a) (3) in effect when the application was submitted.

This letter responds to your request for Certification that the proposed Project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) (Basin Plan) and subsequent Basin Plan amendments:

Project Description: The 385.6-acre Project involves a mixed-use development comprised of 51.6 acres of residential development, 9.9 acres of commercial public access and use that includes a 75-room coastal inn and 20-bed hostel, 286.3 acres of natural open space preserve and public interpretive trails, and approximately 23.9 acres of parklands. The Project also includes 13.9 acres of public roadways. An additional 15.1 acres of remaining oil facilities will be deed restricted for

future open space use, and are not included in the above totals.

The Newport Banning Land Trust (NBLT) will be designated to manage 280 acres of the natural open space preserve (73% of the Project) in perpetuity. Construction of the Project will result in temporary impacts to the 6.3 acres of scrub habitat not included in the designated natural open space preserve area; this habitat will be restored with in-kind seeding. The Project includes improvements to the Talbert Trailhead and a vernal pool interpretive area; these sites will also be managed by the NBLT.

170 acres of the 286.3 acre NBLT managed area designated as natural open space preserve will be subject to restoration, enhancement and conservation of seasonal features (e.g. vernal pools), wetlands, bluff, riparian and upland mesa habitat consistent with the proposed *Habitat Conservation and Conceptual Mitigation Plan (HCCMP)* prepared by Dudek (August 2014)¹. In addition, diffuser basins are planned to be constructed on approximately 0.5 acre of the designated open space lowland area in order to reduce the velocity of concentrated peak flows traveling from the upland to the lowland area. No water quality treatment will occur within the lowlands. All proposed water quality treatment will occur within the development footprint on the mesa (upland) area.

Low Impact Development (LID) water quality enhancement facilities (hydrologic source controls, harvest and reuse systems; biotreatment basins, etc.) will be constructed in the development footprint to control and treat stormwater runoff from on- and off-site sources. Also, new infrastructure and utilities (water, sewer, storm drain, and water quality management facilities) will be constructed to serve the Project and runoff from adjacent existing development areas.

¹*Habitat Conservation and Conceptual Mitigation Plan (HCCMP) for the Newport Banning Ranch Property, City of Newport Beach and Unincorporated Orange County, California (August 2014)*. In the event final Coastal Commission approval results in reduced project impacts, an update to the HCCMP will be prepared and may require an addendum to the 401 Certification.

The work will take place within an unsectioned area of Township 6 South, Range 10 West, of the U.S. Geological Survey *Newport Beach* 7.5 minute topographic quadrangle map (33.634102° N, -117.943283° W).

Receiving water: Santa Ana River Tidal Prism and Newport Slough have designated beneficial uses (existing or potential) that include: contact recreation (REC1), non-contact recreation (REC2), rare/threatened/endangered species (RARE), wildlife habitat (WILD), commercial and sport fishing (COMM), and marine habitat (MAR).

Fill area:

Permanent Impact to Non-Wetland Waters	0.005 acre	linear feet Not Available
Permanent Impact to Wetland Habitat	0.47 acre	linear feet Not Available
Temporary Impact to Wetland Habitat	7.01 acres	linear feet Not Available

Dredge/Fill volume: Not Available

Federal permit: U.S. Army Corps of Engineers (USACE) Nationwide Permit Nos. 27 and 29

You have proposed to mitigate water quality impacts as described in your Certification application. The proposed mitigation is summarized below:

Onsite Water Quality Standards Mitigation Proposed:

- Standard water quality related best management practices (BMPs) will be employed during construction activities.
- The Project will dedicate 280 acres of the Project footprint as part of a natural open space preserve. Portions of the preserve are currently disturbed by industrial infrastructure and associated pollutant sources resulting from historic oil field operations. Mitigation and restorative efforts will be conducted in accordance with the Project's HCCMP identified above and a Remedial Action Plan (RAP) prepared by Geosyntec (dated September 16, 2015 and associated addendum dated November 5, 2015). The RAP was received and reviewed by California Coastal Commission staff and subsequently reported upon in an October 6, 2015 Staff Report Addendum. Regional Board staff issued a conditional approval of the RAP on December 15, 2015.

- Permanent impacts to 0.005 acre non-wetland waters and 0.47 acre wetland in the proposed Project site will be mitigated through the establishment of 13.74 acres of waters of the U.S., including wetlands. Non-wetland waters will be mitigated at a 1:1 ratio; wetland waters of the U.S. will be mitigated at a greater than 3:1 ratio (Table 1 below illustrates the breakdown of mitigation).

Table 1
Summary of Proposed Mitigation by Impact and Habitat Types for Temporary and Permanent Impacts to Riparian and Wetland Habitat

Impact Type	Impact Total (acres)	Mitigation Ratio	Mitigation Required (acres)	Mitigation Type	Mitigation Proposed (acres)	Mitigation Habitat Type
Temporary CDFW Only	0.43	1:1	0.43	In-kind riparian restoration	14.64	Southern willow scrub/mulefat scrub
Temporary USACE/RWQCB/CDFW Wetland	7.01	1:1	7.01	In-kind wetland restoration	11.36	Salt marsh/alkali meadow
Permanent CDFW Only	0.42	3:1	1.26	Riparian establishment	1.04	Southern willow scrub/mulefat scrub
				Riparian enhancement	3.15	
Permanent USACE/RWQCB /CDFW	0.47	3:1	1.41	Wetland establishment	13.74	Salt marsh
Permanent USACE/RWQCB/CDFW Non-Wetland Waters	0.005	1:1	0.005	Non-wetland establishment	0.005	Open channel

CDFW = CA Dept. of Fish and Wildlife
 USACE = US Army Corps of Engineers
 RWQCB = Regional Water Quality Control Board

Offsite Water Quality Standards Mitigation Proposed:

- None.

Should the proposed Project impact State- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife Lake or Streambed Alteration No. 1600-2014-0155-R5 (dated September 30, 2015), should ensure those impacts are mitigated to an acceptable level.

Appropriate BMPs will be implemented to reduce construction-related impacts to waters of the State according to the requirements of the State Water Resources Control Board General NPDES Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order Number 2012-0006-DWQ.

Pursuant to California Code of Regulations, Title 14, Chapter 3, Section 15096, as a Responsible Agency, the Regional Board is required to consider an Environmental Impact Report (EIR) or Negative Declaration prepared by the lead agency in determining whether to approve an application submitted for a project to receive 401 Water Quality Certification. A responsible agency has responsibility to mitigate and avoid only the direct and indirect environmental effects of those parts of the project that it decides to carry out, finance, or approve. Further, the responsible agency must make findings as required by Sections 15091 and, if necessary, 15093, for each and every significant impact of the project.

As required by Section 15096, the Regional Board considered the EIR prepared for the proposed Project in approving this Certification. More specifically, the Regional Board has considered those sections of the EIR pertaining to impacts to water quality standards. Based on the mitigation proposed in the EIR, and the conditions set forth in this Certification, potentially adverse impacts to water quality should be reduced to a less than significant level and beneficial uses protected if all stated mitigation and conditions are performed. Thus, the Regional Board independently finds that changes or alterations have been required or incorporated into the Project that should avoid or mitigate impacts to water quality to a less than significant level.

This 401 Certification is contingent upon the execution of the following conditions:

- 1) The Applicant must comply with the requirements of the applicable Clean Water Act Section 404 permit.
- 2) This Order for Water Quality Certification will remain valid until the USACE 2012 nationwide permits expire on March 18, 2017, or through an extended period beyond the expiration date that is authorized in writing by the USACE.
- 3) Vernal pools that have been identified as existing within any part of the Project area and subsequently confirmed by oversight agencies (i.e. California Coastal Commission, California Department of Fish & Wildlife and the Santa Ana Regional Water Quality Control Board) will be demarcated by the Project Biologist with brightly colored construction fencing to ensure avoidance during construction activities.

- 4) The Applicant shall complete wet season branchiopod and vernal pool vegetation surveys in areas of ponding identified in the May 2013 Dudek report entitled *Jurisdictional Determination of Seasonal Features for the Newport Banning Ranch*. These surveys shall be conducted during the 2016-17 wet season prior to commencing on-site construction activities. Annual wet season surveys shall continue in areas identified as vernal pools in the 2016-17 survey and where construction activities are ongoing and/or expected to commence. This information shall be reported to <http://www.californiawetlands.net/tracker/>.
- 5) Prior to any Project-related grading, functional assessments shall be conducted on the areas listed as 'Seasonal Features' in Table 8 of the Dudek May 2013 report (see Condition 4²) and that are identified to be impacted by project construction. The assessments shall utilize indicator vegetation and animal species surveys specific to vernal pool identification, and all identified 'Seasonal Features' shall be avoided. Avoided vernal pool habitat and vernal pool mitigation sites relocated to the vernal pool interpretive area shall be assessed annually using the same designed survey method. The first survey shall be performed at the end of the first growing season following creation of the first mitigation site using relocated vernal pool substrate material. This substrate material may contain federally endangered San Diego fairy shrimp larvae (*Branchinecta sandiegonensis*). Thereafter, mitigation site assessments shall be conducted annually, during the wet season, until success criteria noted within the HCCP are met for five (5) consecutive years. This information shall be reported to <http://www.californiawetlands.net/tracker/>
- 6) Construction materials, stockpiles, and wastes shall not be stored in waters of the U.S. during the wet season. During the dry season, construction materials, stockpiles, and wastes shall not be stored in waters of the U.S. during, or 48 hours prior to, a forecast storm event with a 10% or greater chance of occurrence.
- 7) The Project proponent shall utilize a series of erosion control, sediment control, perimeter controls, tracking controls, trash/debris controls, waste management and material pollution control and other related BMPs during Project construction to minimize the controllable discharges of sediment and other wastes to drainage systems or other waters of the State and of the United States.

² Based upon the 2016 Final Jurisdictional Determination of Seasonal Features by USACE (presence of wetlands or "Waters of the US" pursuant to Section 404 of the Clean Water Act) and the CA Coastal Commission (presence of ESHA or wetlands pursuant to the Coastal Act).

- 8) Substances resulting from Project-related activities that could be harmful to aquatic life, including, but not limited to, petroleum lubricants and fuels, cured and uncured cements, epoxies, paints and other protective coating materials, portland cement concrete or asphalt concrete, and washings and cuttings thereof, shall not be discharged to soils or waters of the State. All waste concrete shall be removed from the Project site.
- 9) Motorized equipment shall not be maintained or parked within or near any stream crossing, channel or lake margin in such a manner that petroleum products or other pollutants from the equipment may enter these areas under any flow conditions. Vehicles shall not be driven or equipment operated in waters of the State on-site, except as necessary to complete the proposed project. No equipment shall be operated in areas of flowing water.
- 10) There shall be at all times appropriate types and sufficient materials onsite to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if materials reach waters of the US and/or State.
- 11) All active stockpiles shall include perimeter and sediment controls and located away from drain inlets and waterways. All inactive stockpiles shall be located away from drain inlets and waterways. These stockpiles shall be covered and surrounded with adequate perimeter controls.
- 12) At each major phase of mass grading, drainage areas and sediment basin sizing shall be updated to accurately reflect current runoff and field conditions to protect downstream receiving waters.
- 13) This Water Quality Certification is subject to the acquisition of all local, regional, State, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any the conditions contained in any other permit or approval for this Project issued by the State of California or any subdivision thereof may result in appropriate enforcement action, including the revocation of this Certification and imposition of administrative civil or criminal liability.
- 14) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 15) Construction de-watering discharges, including temporary stream diversions necessary for project construction may be regulated under Regional Board Order No. R8-2015-0004, General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimus) Threat to Water Quality. For more information, please review Order No. R8-2015-0004 at www.waterboards.ca.gov/santaana/

- 16) The Applicant shall ensure that all fees associated with this Project shall be paid to each respective agency prior to conducting any on-site construction activities.
- 17) Prior to any Project-related grading, functional assessments of the riparian areas or wetlands slated to be impacted shall be conducted using the California Rapid Assessment Method, February 2012 (CRAM). Then, these same sites shall be assessed again using CRAM at the end of the first growing season that follows their initial planting. Thereafter, mitigation site assessments shall be conducted annually at the end of the growing season until success criteria are met for five consecutive years. This information shall be reported to <http://www.californiawetlands.net/tracker/>

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the Applicant.

If the above-stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Regional Board may require that the Applicant submit a Report of Waste Discharge and obtain Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this Certification, the holder of any permit or license subject to this Certification shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of Section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.

Violations of the conditions of this Certification may subject the Applicant to civil liability pursuant to Water Code Section(s) 13350 and/or 13385.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby certify that any discharge from the referenced Project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 2003-0017-DWQ is available at: www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo_2003-0017.pdf

Should there be any questions, please contact Marc Brown at (951) 321-4584 or marc.brown@waterboards.ca.gov, or Wanda Cross at (951) 782-4468 or wanda.cross@waterboards.ca.gov.

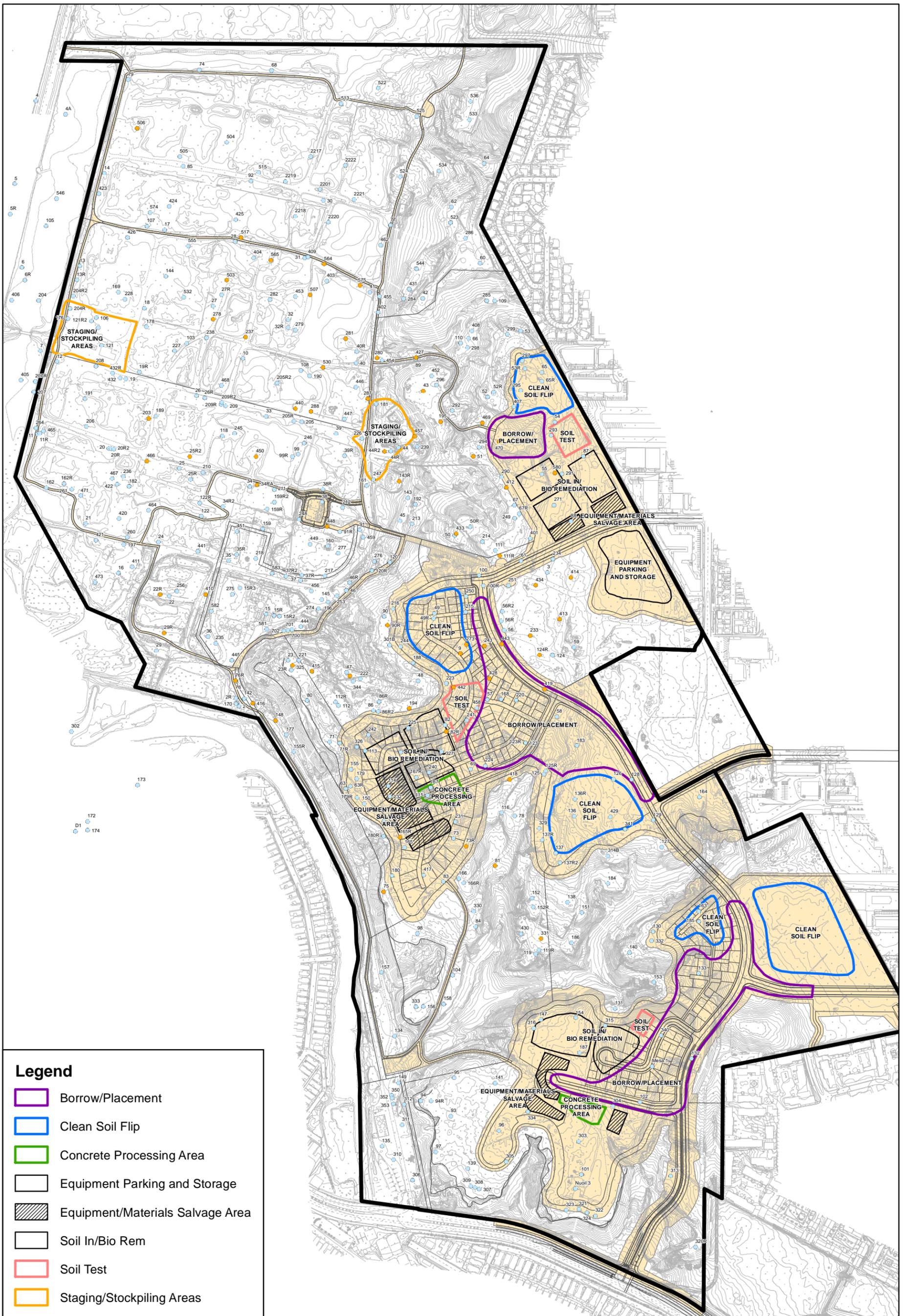
Sincerely,



Kurt V. Berchtold
Executive Officer

cc (via electronic mail):

U.S. Army Corps of Engineers, Los Angeles Office - Stephen Estes
State Water Resources Control Board, OCC - David Rice
California Department of Fish and Wildlife - Kevin Huph
SWRCB, DWQ-Water Quality Certification Unit - Bill Orme
US EPA Region 9- Jason A. Brush - brush.jason@epa.gov
Dudek - Tricia Wotipka - twotipka@dudek.com
Fusco Engineering, Inc - Ian Adam - iadam@fuscoe.com



Soil Remediation Planning
City of Newport Beach

Exhibit 1

11/20/2015

