

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: CONSENT CALENDAR

Application No.: 5-17-0951

Applicant: Orange County Parks

Location: Talbert Regional Park, 1298 Victoria St., Costa Mesa (Orange County)

Project Description: Removal of pampas grass and other non-native invasive vegetation within Talbert Regional Park, utilizing heavy equipment and hand crews. Post-project, remaining holes are proposed to be filled with soil or revegetated through native species recruitment.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to remove approximately 12.6 acres of pampas grass and other invasive non-native plant species distributed within approximately 40 acres within Talbert Regional Park, utilizing an excavator to effectively remove the plants in their entirety, including the root mass. The primary issue raised by the proposed activities is potential impacts to existing vernal pools (which are considered Environmentally Sensitive Habitat Areas), and native vegetation and wildlife within the project area. As conditioned, Commission staff is recommending **approval** of the proposed project with **five special conditions** to minimize potential adverse impacts caused by the development consistent with the Coastal Act, including: 1) conformance with proposed plans; 2) timing of operations to avoid potential impacts to avian species; 3) avoiding basins where water is present to avoid the creation of tire ruts; 4) returning all excavated areas to level grade; and 5) permit expiration.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION.....	4
II. STANDARD CONDITIONS	4
III. SPECIAL CONDITIONS	5
IV. FINDINGS AND DECLARATIONS.....	7
A. PROJECT LOCATION & DESCRIPTION	7
B. HABITAT.....	8
C. PUBLIC ACCESS AND RECREATION.....	8
D. WATER QUALITY.....	8
E. LOCAL COASTAL PROGRAM (LCP)	8
F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)	8

APPENDICES

Appendix A - Substantive File Documents

EXHIBITS

Exhibit 1 – Vicinity Map

Exhibit 2 – Proposed Plans

Exhibit 3 – Biological Survey Field Results

I. MOTION AND RESOLUTION

Motion: *I move that the Commission approve the Coastal Development Permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution: *The Commission hereby approves a Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

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

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Conformance with Proposed Project Plans.** The applicant shall conform with the plans submitted on September 14, 2017. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.
2. **Timing of Operations.** By acceptance of this permit, the applicant agrees that:
 1. If construction activities, including but not limited to grading, construction, restoration activities, or other disturbance are to occur between February 15 and August 31, a pre-construction nesting bird survey shall be conducted to determine the presence of active nests within 500 feet of the construction activities. The nesting bird surveys shall be completed no more than 72 hours prior to any construction activities. All ground-disturbance activities within 500 feet of raptor nests or other active nests or as specified below shall be halted until that nesting effort is finished.
 2. The monitor shall review and verify compliance with these nesting boundaries and shall verify when the nests have been naturally vacated for the season, with no human interference. Work may resume when no other active nests are found. Upon completion of the survey and any follow-up construction avoidance management, a report shall be prepared and submitted to the Executive Director.
 3. Appropriate noise-abatement measures (e.g., sound walls) shall be implemented to ensure that noise levels are less than 60 A-weighted decibels (dBA) at the active nest of a listed species, as determined by the biological monitor. This shall be verified by weekly noise monitoring at an equivalent location conducted by a qualified Acoustical Engineer during the breeding season (February 1 to September 15) or as otherwise determined by a qualified biological monitor based on nesting activity.
 4. Activities involving disturbance or removal of riparian vegetation shall be prohibited during the least Bell's vireo breeding season (March 15 to September 15).
 5. Vegetation impacts shall be monitored by a qualified Biologist. The Biological Monitor shall delineate (by the use of orange snow fencing or lath and ropes/flagging) all areas adjacent to the impact area that contain habitat suitable for sensitive bird occupation (i.e., California gnatcatcher, Belding savannah sparrow, light-footed clapper rail) and raptors.
 6. Prior to and during any disturbance of suitable gnatcatcher habitats outside the gnatcatcher breeding season, the biologist shall locate any individual gnatcatchers on-site and direct clearing to begin in an area a minimum of 300 feet away from the birds. No site disturbance shall occur until the individual birds have naturally vacated the area without human interference. It shall be the responsibility of the permittee to assure that gnatcatchers shall not be directly injured or killed by impacts to Coastal Sage Scrub or other Scrub communities.
 7. Prior to initiating vegetation impacts or project construction, the biological monitor shall meet on-site with the construction manager or other individual(s) with oversight and management responsibility for the day- to-day activities on the construction site to

discuss implementation of the relevant avoidance and minimization mitigation measures for gnatcatchers. The biologist shall meet as needed with the construction manager (e.g., when new crews are employed) to discuss implementation of these measures.

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 revised final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- 3. Avoidance of Basins Where Water is Present.** The applicant shall avoid driving in basins when water is present to prevent the creation of tire ruts. If driving through the basins with heavy equipment is required to access non-native vegetation, the heavy equipment should be outfitted with low-tread rubber tires to limit disturbance to the soil surface.
- 4. Filling in Excavated Areas.** All excavated areas shall be returned to a level ground condition after the invasive root masses are removed. Filling of the holes will minimize changes in hydrology within potential habitat for federally listed invertebrates (i.e., San Diego fairy shrimp or Riverside fairy shrimp).
- 5. Permit Expiration.** Invasive vegetation removal activities approved pursuant to CDP No. 5-17-0951 shall expire on March 16, 2019, with a provision for the expiration to be extended for additional time, with the approval of an amendment to this permit. Any invasive vegetation removal activities after the expiration of this permit will require the issuance of a new coastal development permit or an amendment to this permit.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The applicant proposes to remove 12.6 acres of pampas grass and other invasive plant species (including arundo, myoporum, and five hook bassia), distributed over approximately 40 acres within Talbert Regional Park, using an excavator with a grapple attachment, or skidsteer to remove the entire plant and root mass at one time, and to place the removed pampas grass material into trucks for off-site disposal. Depending on the depth of the holes that remain in the soil after root masses are removed, the applicant proposes to fill in the remaining holes with either: 1) the soil that is separated from the plant material when the plant material is removed and disposed; or 2) fill from the surrounding vicinity within the park. The applicant has also proposed to fill the remaining holes in the soil with additional soil from outside the project vicinity if necessary. In order to deter regrowth of the pampas grass and other invasive plant species from becoming reestablished, the applicant proposes to conduct a monthly inspection and treatment program to locally eradicate re-sprouts in the locations where the invasive plants have been removed.

The project site is in the southern portion of Talbert Regional Park, located South of Victoria Street in Costa Mesa between West 19th Street and the Santa Ana River. ([Exhibit1](#)). The southern portion of the park is approximately 88.5 acres, and consists of approximately nine unpaved service roads and trails ([Exhibit 2](#)). Much of the park maintains a large amount of very tall (approximately 10 feet in some areas) and wide (up to 10 feet in diameter) invasive pampas grass, which easily out-competes native plants for water, space, and light. Pampas grass is a quickly growing grass that forms tall, massive clumps, that essentially crowds out native vegetation, reducing plant diversity and destroying habitat for native wildlife which utilize the native plants for food and shelter. Furthermore, pampas grass has leaf blades that are highly undesirable as food or shelter to birds and other wildlife, and can actually cause physical harm to wildlife because the leaves are extremely sharp. Many of the stands of pampas grass within Talbert Regional Park are so large, that trimming and treating with herbicide is not an option because to do so would require the application of a large amount of herbicide which could be detrimental to the surrounding habitat. Thus, effective removal of the pampas grass requires complete excavation of its root structure.

Removing pampas grass, in addition to removing other invasive and non-native vegetation on site, will help protect the remaining native flora that is critical to improve the habitat quality of the area. During removal of non-native vegetation, impacts to native vegetation will be avoided as much as practical, and a wildlife biologist will be present during all pampas grass removal efforts to identify and flag native and non-native plant species to ensure focused treatment of non-native species and to avoid adverse impacts to wildlife. If an area is too densely vegetated with native species for equipment to access, the applicant is proposing to remove the pampas grass in the area by hand. To avoid impacts to avian species, all invasive vegetation removal efforts conducted during nesting season (between February 15 and August 31), must adhere to **Special Condition 2**, which requires the applicant to conduct a pre-construction nesting bird survey to determine the presence of active nests within 500 feet of the vegetation removal activities.

Coastal Act Section 30240 states that Environmentally Sensitive Habitat Areas (ESHA) shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. Vernal pools have been observed in the project area, which are seasonal wetlands that may rise to the level of Environmentally Sensitive Habitat Areas (ESHA) if the seasonal wetlands contain species that are endemic to that habitat. Vernal pools often occur in soils that have a natural lining of bedrock or a lining of hard clay that prevents water from infiltrating into the soil, in locations where there is a Mediterranean climate. During rain events, if vernal pool species are present, a shallow layer of water covering depressions in the soil can “awaken” the seeds, eggs, and/or cysts of vernal pool species. During a wet season, a seasonal pool may fill and dry out several times and in years of drought, it may not fill at all. The seeds, eggs, and cysts can survive the drought conditions until the pool fills again.

According to the United States Fish and Wildlife Service (USFWS), extensive pools were observed in Talbert Regional Park in the early part of 2017, primarily on main trails within the park. On January 25, 2017, the USFWS recommended that the applicant, Orange County Parks conduct a survey to determine if habitat suitable for federally listed invertebrates (i.e., San Diego fairy shrimp or Riverside fairy shrimp) was present in the park. On January 27, 2017, USFWS received confirmation from Brian Lohstroh, a biological consultant, that the park contained 50-80 basins that were potentially suitable for listed species and numerous invertebrates were observed, including

Brancinecta (fairy shrimp), Daphnia (water fleas), ostracods (seed shrimp), and copepods ([See Exhibit 3](#)). On February 2, 2017 a single wet season survey was conducted in 19 of the basins plus the "BMX complex" and the versatile fairy shrimp (*Branchinecta lindahli*) was detected in 6 of the basins. Because these basins were occupied by Versatile Fairy Shrimp (VFS), a non-listed fairy shrimp species, they are considered to be vernal pools. Wetlands that contain endemic aquatic invertebrates (such as fairy shrimp or ostracods) or endemic vegetation are defined as ESHA because they provide habitat for rare and especially valuable plant and animal life and they are easily disturbed by human activity and development.

In order for the applicant to access the areas containing pampas grass and non-native vegetation, it may be necessary for them to enter into dry vernal pool basins that exist along the roads with heavy equipment. In order to ensure that existing vernal pools are protected against significant disruption of habitat values, the Commission is imposing **Special Condition 3**, which states that the applicant shall avoid driving in basins when water is present to prevent tire ruts, and if driving through the basins with heavy equipment is required to access non-native vegetation, the heavy equipment should be outfitted with low-tread rubber tires to limit disturbance to the soil surface. In addition, to minimize changes in hydrology within potential habitat for federally listed invertebrates (i.e., San Diego fairy shrimp or Riverside fairy shrimp), **Special Condition 4** requires that all excavated areas be returned to a level ground condition after root masses are removed.

Invasive plant removal is an important component of restoration, and the proposed project qualifies as a resource-dependent restoration project because the proposed activities (non-native and invasive vegetation removal) depend on the resources (re-growth of existing native vegetation) for restoration. Commission staff finds that the proposed pampas grass and invasive plant removal and native plant species recruitment will establish a more highly functioning ecosystem in the long-term by increasing the amount of space, water, and light for native vegetation to recolonize and restore the habitat, and allowing for more space for native species (such as federally listed San Diego fairy shrimp or Riverside fairy shrimp) to propagate and thrive. Thus, as conditioned, Commissions staff determines that the project is consistent with Section 30240 because the vernal pools will be sufficiently protected against any significant disruption of habitat values, and the restoration related to invasive plant removal will be compatible with the continuance of habitat values.

A Native American cultural monitor will be present during all pampas grass removal efforts to provide cultural and archaeological monitoring services to ensure any artifacts encountered are documented per local, state, and federal regulations; and the County will incorporate Best Management Practices to minimize adverse impacts on water quality that may result from the project. The applicant will promote natural native species recruitment to occur in the locations where invasive plants have been removed by conducting a monthly inspection and treatment program to locally eradicate re-sprouts in the locations where the invasive plants have been removed. The USFWS has reviewed the proposed project, and has approved the proposed work as conditioned by this coastal development permit.

B. HABITAT

As conditioned, the development will not result in significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms to Section 30240(b) of the Coastal Act.

C. PUBLIC ACCESS

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby beaches and recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

D. WATER QUALITY

The proposed development has a potential for a discharge of polluted run-off from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing run-off through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the run-off discharged from the site, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

E. LOCAL COASTAL PROGRAM (LCP)

Section 30604 of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. The permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program, which conforms with the Chapter 3 policies of the Coastal Act.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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.