

CALIFORNIA COASTAL COMMISSION

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

**W14a**

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STAFF REPORT: PERMIT AMENDMENT

Application No.: **A-5-LGB-14-0034-A1**

Applicant: **Laguna Beach Golf and Bungalow Village, LLC**

Project Location: 31106 Coast Highway, Laguna Beach, Orange County

Description of Previously Approved Project: Expansion and remodel of former 64-room Aliso Creek Inn hotel, restaurant, banquet and golf course facility on 84-acre site to include addition of 33 hotel rooms, reconfiguration of restaurant and assembly areas; additions to existing structures; new spa, fitness center, employee lounge, and accessory structures; new valet parking program for assembly uses and special events; establish outdoor event center at 'Scout Camp;' an offer to dedicate a floating easement for a public pedestrian and cycling trail; and a free youth camping program.

Description of Amendment Request: Amend Coastal Development Permit Special Condition 13 regarding Tree Trimming and Tree Removal Policy and 1) restoration of areas of Aliso Creek impacted by unauthorized vegetation trimming activities; 2) establishment of a low-growing riparian plant palette in areas of Aliso Creek to avoid future maintenance/disturbance in the Creek; and 3) implementation of a restoration plan to mitigate impacts of previous tree trimming/vegetation removal activities in Aliso Creek and addressing impacts from the unauthorized removal of downed vegetation from the stream bank due to January 2017 winter storms.

SUMMARY OF STAFF RECOMMENDATION

On January 8, 2015, the Commission approved Coastal Development Permit A-5-LGB-14-0034 for the expansion and remodel of the former 64-room Aliso Creek Inn hotel, restaurant, banquet and golf course facility on the 84-acre project site. The coastal development permit included twenty-two (22) Special Conditions, including Special Condition 13: Tree Trimming and Tree Removal Policy. Special Condition 13 established parameters for annual and emergency tree trimming activities on the project site. While recognizing that the permittee is obligated to trim trees for the safety of the public and the protection of property, Special Condition 13 also intends to insure the protection of bird nesting habitat and the long-term protection of breeding, roosting, and nesting habitat of state and federally listed bird species, California bird species of special concern, and bird, bat and butterfly species that play an especially valuable role in the ecosystem during trimming activities.

From November 16 to 19, 2015, the applicant conducted unauthorized maintenance tree trimming and removal in Aliso Creek, a natural blue line stream which runs through the property, specifically through the golf course fairway. The applicant cut woody riparian vegetation in four areas of the Creek purportedly to address ball strikes (i.e., when a golfer is hit by a golf ball) on the golf course which occurred apparently due to view obstructions caused by woody vegetation growth in the Creek that adversely affected the safety of the golfers. On December 22, 2015, Commission Enforcement staff sent a Notice of Violation (NOV) letter for failure to provide a biological survey to the Executive Director for review prior to the vegetation removal activities in violation of Special Condition 13, and for unpermitted removal of major vegetation, including native riparian species from Aliso Creek. This permit amendment request proposes to address the activities documented by the NOV letter and to resolve the violations described therein.

The item was scheduled for Commission action at its February 2017 meeting. However, prior to the Commission meeting, a few winter storms in late January caused large storm flows through the creek carrying downed vegetation (primarily dried downed arundo from the upper reaches of the creek and a non-riparian willow tree) causing erosion and damage to the creek banks. During the storm event, the applicant utilized heavy equipment perched at the top of the creek bank to remove the downed tree and other storm downed vegetation clogging the creek in an unauthorized manner. The applicant then requested a postponement from Commission action at the February 2017 meeting in order to (1) address creek bank erosion impacts caused by the storm and/or from the unpermitted use of heavy equipment for removal of downed vegetation from the stream bank and to (2) incorporate erosion control within and along the banks of the creek as part of this CDP amendment application.

Staff recommends that the Commission, **approve** the proposed amendment to Coastal Development Permit A-5-LGB-14-0034-A1, to amend Coastal Development Permit Special Condition 13 regarding Tree Trimming and Tree Removal Policy and 1) restore areas of Aliso Creek impacted by unauthorized vegetation trimming activities, 2) establish a low-growing riparian plant palette in key areas of Aliso Creek to avoid future maintenance/disturbance within the Creek; and 3) implement a restoration plan to mitigate impacts of previous tree trimming/vegetation removal activities in Aliso Creek and address impacts from the unauthorized removal of downed vegetation from the stream bank due to January 2017 winter storms.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION.....	4
II. SPECIAL CONDITIONS	4
III. FINDINGS AND DECLARATIONS.....	10
A. PROJECT LOCATION AND AMENDMENT DESCRIPTION.....	10
B. BIOLOGICAL RESOURCES	14
C. WATER QUALITY.....	15
D. PUBLIC ACCESS AND RECREATION.....	17
E. UNPERMITTED DEVELOPMENT/NON-COMPLIANCE WITH CDP.....	18
F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)	19
APPENDIX A – SUBSTANTIVE FILE DOCUMENTS	21
APPENDIX B - ORIGINAL COASTAL DEVELOPMENT PERMIT STANDARD AND SPECIAL CONDITIONS APPROVED BY THE COMMISSION N JANUARY 8, 2015	21

EXHIBITS

[Exhibit 1 – Location Map/Project Site](#)

[Exhibit 2 – Proposed Vegetation Maintenance/Mitigation Map](#)

[Exhibit 3 - Final Restoration Plan for Tree Trimming/Removal Activities in Aliso Creek at The Ranch at Laguna Beach In Resolution to CCC Violation No. -5-15-0125 dated October 1, 2016 and Revised January 23, 2017](#)

[Exhibit 4 – Addendum No. 1 to the Final Restoration Plan for Tree Trimming/Removal Activities in Aliso Creek within The Ranch at Laguna Beach in Resolution to CCC Violation No. V-5-15-0125](#)

[Exhibit 5 – Revised Plant Palettes for Tables 2 and 3 of the Final Restoration Plan for Tree Trimming/Removal Activities in Aliso Creek within The Ranch at Laguna Beach in Resolution to CCC Violation No. V-5-15-0125](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** the proposed amendment to Coastal Development Permit No. A-5-LGB-14-0034 pursuant to the staff recommendation.*

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

Resolution to Approve a Permit Amendment:

The Commission hereby approves the Coastal Development Permit Amendment on the grounds that the development as amended and subject to the conditions specified in Section II of the staff report (including Exhibit B, incorporated herein by reference), will be in conformity with the City of Laguna Beach certified LCP. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

II. SPECIAL CONDITIONS

The following is adopted as part of the Commission's resolution:

Appendix B, attached, includes all Standard and Special Conditions that apply to this development as approved by the Commission on January 8, 2015. Unless specifically altered by this amendment, all Standard and Special Conditions imposed under Coastal Development Permit A-5-LGB-14-0034 and contained in Appendix B, remain in effect, except as herein revised by this CDP amendment. New Special Conditions (23 and 24) specifically imposed in this Amendment No. 1 action are included in the following section. The Revised Special Condition 13 is shown with insertions shown in **Bold Italic Underline**.

New Special Conditions 23 and 24, and revised Special Condition 13 of the original permit are incorporated into the present permit amendment herein:

REVISED SPECIAL CONDITION 13. Tree Trimming and Tree Removal Policy. This coastal development permit approves annual and emergency tree trimming activities consistent with the following policy:

The purpose of this policy is to ensure the protection of bird nesting habitat protected by the Migratory Bird Treaty Act and the long-term protection of breeding, roosting, and nesting habitat of state and federally listed bird species, California bird species of special concern, and bird species that play an especially valuable role in the ecosystem. This policy is also

intended to ensure the protection of roosting California bat species of special concern and wintering Monarch butterflies. The permittee is obligated to trim trees for the safety of the public and the protection of property. The trimming or removal of any tree that has been used for bird breeding and nesting or bat or butterfly roosting within the past five years, determined by a qualified biologist, shall be undertaken in compliance with all applicable codes or regulations of the California Department of Fish and Wildlife, the U.S. Fish and Wildlife Service and the U.S. Migratory Bird Treaty Act, and shall be conducted under the parameters described below.

Tree trimming or tree removal shall be prohibited during the breeding and nesting season of the bird species referenced above (February 1 through August 31) unless the permittee, in consultation with a qualified arborist, determines that a tree causes danger to public health and safety. A health and safety danger exists if an independent qualified arborist in consultation with a qualified biologist determines that a tree or branch is dead, diseased, dying, or injured and said tree or branch is in imminent danger of collapse or breaking away. The permittee shall be proactive in identifying and addressing diseased, dying or injured trees as soon as possible in order to avoid habitat disturbances during bird nesting season. Trees or branches with a nest that has been active anytime within the last five years shall not be removed or disturbed unless a health and safety danger exists.

Prior to trimming, a qualified biologist shall determine if trees are being used by roosting bats or wintering butterflies. If bats are found on a particular tree, or have been found in the previous five years, tree trimming should be confined to November and December when bats are least active. Tree trimming shall not occur on trees occupied by butterflies, or on trees within 300 ft. of occupied trees, until after the butterflies have migrated from the region. If Monarch butterflies do begin to overwinter in trees at The Ranch, a qualified Monarch biologist must develop a habitat protection and maintenance plan prior to trimming any trees within the roosting grove.

The removal of any tree with documented use for raptor nesting, bat roosting, or Monarch wintering shall require mitigation at a 1:1 ratio. A tree replacement planting plan for each tree replacement shall be developed to specify replacement tree location, tree type, tree size (no less than 36" box size), planting specifications, and a five-year monitoring program with specific performance standards. An annual monitoring report for tree replacement shall be submitted for the review and approval of the Executive Director of the Coastal Commission. The permittee shall maintain the annual reports on file as public information and to be used for future tree trimming and removal decisions.

A. Tree Trimming During Non-Breeding and Non-Nesting Season (October through December)

- 1) Prior to tree trimming or removal, a qualified biologist or ornithologist shall survey the trees to be trimmed or removed to detect nests and submit a survey report to the permittee and the Executive Director of the Coastal Commission. The survey report shall include identification of all trees with nests. The permittee shall maintain a database of survey reports that includes a record of nesting trees that is available as public information and to be used for future tree trimming and removal decisions.

- 2) Any trimming of trees with nests shall be supervised by a qualified biologist or ornithologist and a qualified arborist to ensure that adequate nest support and foliage coverage is maintained in the tree, to the maximum extent feasible, in order to preserve the nesting habitat. Trimming of any nesting trees shall occur in such a way that the support structure of existing nests will not be trimmed and existing nests will be preserved, unless the permittee, in consultation with a qualified arborist, determines that such trimming is necessary to protect the health and safety of the public. The amount of trimming at any one time shall be limited to preserve the suitability of the nesting tree for breeding and/or nesting habitat. Trees or branches with a nest that has been active anytime within the last five years shall not be removed or disturbed unless a health and safety danger exists, as defined in this special condition, above.
 - 3) Trimming may not proceed if a nest is found and evidence of courtship or nesting behavior is observed at the site. In the event that any birds continue to occupy trees during the non-nesting season, trimming shall not take place until a qualified biologist or ornithologist has assessed the site, determined that courtship behavior has ceased, and given approval to proceed within 300 feet of any occupied tree.
- B. Tree Trimming or Removal During Breeding and Nesting Season (February 1 through August 31). If tree trimming or removal activities cannot feasibly avoid the breeding season because a health and safety danger exists, the following guidelines must be followed:
- 1) A qualified biologist or ornithologist shall conduct surveys and submit a report at least one week prior to the trimming or removal of a tree (only if it is posing a health or safety danger) to detect any breeding or nesting behavior in or within 300 feet of the work area. A tree trimming and/or removal plan shall be prepared by a qualified arborist in consultation with the qualified biologist or ornithologist. The survey report and tree trimming and/or removal plan shall be submitted for the review and approval of the Executive Director of the Coastal Commission, the California Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, and the applicant. The applicant shall maintain the plans on file as public information and to be used for future tree trimming and removal decisions. The plan shall incorporate the following:
 - a. A description of how work will occur.
 - b. Work must be performed using non-mechanized hand tools to the maximum extent feasible.
 - c. Limits of tree trimming and/or removal shall be established in the field with flagging and stakes or construction fencing.
 - d. Steps shall be taken to ensure that tree trimming will be the minimum necessary to address the health and safety danger while avoiding or minimizing impacts to breeding and nesting birds and their habitat.
 - 2) Prior to commencement of tree trimming and/or removal the applicant shall notify in writing the Executive Director of the Coastal Commission, the California Department of Fish and Wildlife, and the U.S. Fish and Wildlife Service of the intent to commence tree trimming or removal.

C. Eucalyptus Tree Trimming or Removal

- 1) Prior to tree trimming or removal, a qualified biologist shall survey the trees to be trimmed or removed to detect evidence of bat roosting and submit a survey report to the permittee and the Executive Director of the Coastal Commission. The survey report shall include identification of all trees with evidence of bat roosting. The permittee shall maintain a database of survey reports that includes a record of roosting trees that is available as public information and to be used for future tree trimming and removal decisions.
- 2) Any trimming of trees with evidence of bat roosting shall be supervised by a qualified biologist and a qualified arborist to ensure that adequate foliage coverage is maintained in the tree, to the maximum extent feasible, in order to preserve the roosting habitat, unless the permittee, in consultation with a qualified arborist, determines that such trimming is necessary to protect the health and safety of the public. The amount of trimming at any one time shall be limited to preserve the suitability of the roosting tree for bat roosting habitat. Trees or branches with evidence of active roosting anytime within the last five years shall not be removed or disturbed unless a health and safety danger exists, as defined in this special condition, above.
- 3) Trimming may not proceed if roosting is observed at the site until a qualified biologist has assessed the site and given approval to proceed within 300 feet of any occupied tree.

D. Tree Trimming or Removal During Monarch Roosting Season (September through February). If tree trimming or removal activities cannot feasibly avoid the overwintering season because a health and safety danger exists, the following guidelines must be followed:

- 1) A qualified biologist shall conduct surveys and submit a report at least one week prior to the trimming or removal of a tree (only if it is posing a health or safety danger) to detect any monarch roosting behavior in or within 300 feet of the work area. A tree trimming and/or removal plan shall be prepared by a qualified arborist in consultation with the qualified biologist. The survey report and tree trimming and/or removal plan shall be submitted for the review and approval of the Executive Director of the Coastal Commission, the California Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, and the applicant. The applicant shall maintain the plans on file as public information and to be used for future tree trimming and removal decisions. The plan shall incorporate the following:
 - a. A description of how work will occur.
 - b. Work must be performed using non-mechanized hand tools to the maximum extent feasible.
 - c. Limits of tree trimming and/or removal shall be established in the field with flagging and stakes or construction fencing.
 - d. Steps shall be taken to ensure that tree trimming will be the minimum necessary to address the health and safety danger while avoiding or minimizing impacts to roosting monarchs or their habitat.
- 2) Prior to commencement of tree trimming and/or removal the applicant shall notify in writing the Executive Director of the Coastal Commission, the California

Department of Fish and Wildlife, and the U.S. Fish and Wildlife Service of the intent to commence tree trimming or removal.

E. Aliso Creek. Vegetation trimming within Aliso Creek shall be prohibited, with the exception of the following activities: Initial removal of 0.85 acre area of native and non-native woody vegetation within the Refined Maintenance Polygons and ongoing removal of woody vegetation that naturally recruits within the Refined Maintenance Polygons shall be permitted, subject to compliance with Special Condition 23 and Special Condition 24. Woody vegetation removal shall otherwise be prohibited within Aliso Creek. Natural recruitments shall be hand-removed outside of the avian nesting season while the plants are still saplings.

All tree trimming and tree removal shall be conducted in strict compliance with this policy. All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location. Any proposed change or deviation from the approved policy must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required.

NEW SPECIAL CONDITION 23. Restoration Plan. Upon review and approval by the Executive Director, the permittee shall comply with the proposed “Final Restoration Plan for Tree Trimming/Removal Activities in Aliso Creek within The Ranch at Laguna Beach in Resolution to CCC Violation No. V-5-15-0125” and Addendum 1 (collectively, hereinafter, the “Restoration Plan”) submitted by the permittee. The Executive Director may require revisions to the Restoration Plan to ensure successful restoration, in which case the permittee shall revise the Restoration Plan consistent with the Executive Director’s specifications, and resubmit the Restoration Plan for further review and approval by the Executive Director, by the deadline established by the modification request from the Executive Director.

A. Initially, permittee shall make the following changes to the Restoration Plan with deletions shown in **bold, italic, double strikethrough** and insertions in **bold, italic, double underline**:

- i. Page 4. ~~**Initial removal Maintenance**~~ efforts will consist of cutting ~~**select**~~ woody species to within 4-6 inches of the soil and treating stumps with an herbicide acceptable for use in aquatic environments; ~~**only**~~ ~~**vegetation that must be removed to ensure continued safe play of the golf course will be selected for removal.**~~ ~~Ongoing maintenance will be required in order to keep the canopy from extending higher than the top of bank.~~ For woody species that naturally recruit into the Maintenance Trimming Polygons, ongoing maintenance outside of nesting season will be required, ~~**but shall occur no more than twice annually.**~~ Woody natural recruits will be targeted for hand-removal during the sapling phase of growth. Maintenance trimming activities will be monitored and reported on annually to the Commission for five years.

- ii. Page 18. *Within 30 days of*~~A~~ the end of the 120-day establishment period, the Project Biologist will assess the health of native plantings in the revegetation areas *and provide the assessment to the Executive Director for review and approval. If the Executive Director deems plant establishment to be* satisfactory, the establishment period will be considered concluded and long-term maintenance activities will commence. If plant health is deemed unsatisfactory, the establishment period will be extended for an additional 60 days in order for the Landscape Contractor to implement remedial measures, including plant replacement. Any plant replacement will occur in accordance with plant replacement measures addressed below.

Compliance with the Final Restoration Plan, as approved by the Executive Director, is hereby made a binding condition of approval of the permit.

- B. The Restoration Plan shall be prepared and implemented consistent with this permit, including, but not necessarily limited to the following conditions:
 - i. If the final restoration monitoring report, submitted per the requirements of the Restoration Plan, indicates that the restoration project has been unsuccessful, in part or in whole, based on the approved success criteria, the applicant shall submit within 90 days a revised or supplemental restoration plan to compensate for those portions of the original plan which did not meet the approved success criteria. The permittee shall undertake mitigation and monitoring in accordance with the approved Restoration Plan following all procedures and reporting requirements until all performance standards (success criteria) are met. Any proposed changes to the approved final, revised plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director provides a written determination that no amendment is legally required.
 - ii. Once annually, the permittee shall provide representatives of Sea & Sage Audubon and California Native Plant Society, Orange County Chapter with an opportunity to access the property to the restoration activities and areas potentially affected by the restoration. Nothing in this permit is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law.

NEW SPECIAL CONDITION 24. Other Agency Approvals. PRIOR TO ISSUANCE OF THE PERMIT, the permittee shall provide to the Executive Director a copy of a permit issued by the California Department of Fish and Wildlife and City of Laguna Beach, or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the California Department of Fish and Wildlife or City of Laguna Beach. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this

coastal development permit, unless the Executive Director issues a written determination that no amendment is legally required.

NEW SPECIAL CONDITION 25. Condition Compliance. Within 90 days of Commission action on this coastal development permit amendment application, or within such additional time as the Executive Director may grant for good cause, the permittee shall satisfy all requirements specified in the conditions hereto that the permittee is required to satisfy prior to issuance of this permit amendment. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

III. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION AND AMENDMENT DESCRIPTION

Project Location

The subject site known as “The Ranch at Laguna Beach” is located at 31106 Coast Highway, Laguna Beach, Orange County ([Exhibit #1](#)). The site is an 84-acre property located at the bottom of Aliso Canyon on the inland side of South Coast Highway, inland of Aliso Beach. The site includes a hotel, restaurant, golf course facilities and a three-quarter mile stretch of Aliso Creek, a designated “blue line stream” which bisects the 9-hole golf course on the property. The golf course pre-dates the Coastal Act. In areas of the golf course where the fairway crosses Aliso Creek, vegetation has historically been modified to maintain the golf course use.

Access to the site is provided by a driveway that extends about a quarter-mile inland from South Coast Highway via an easement across property owned by the South Coast Water District. The mouth of Aliso Creek is located on the seaward side of South Coast Highway at Aliso Beach. Public access to the beach is available seaward of the site and South Coast Highway at Aliso Beach.

Description of Amendment Request

From November 16 to 19, 2015, the Ranch (permittee) undertook maintenance tree trimming and major vegetation removal in and along Aliso Creek, purportedly to address ball strikes in the golf course, which, according to the permittee, occurred due to view obstructions caused by woody vegetation growth along the Creek. Tree and vegetation trimming within the Creek occurred on four polygon-shaped areas comprising approximately 2.84 acres, and native vegetation trimmed within the areas comprised approximately 1.33 acres ([Exhibit #2](#)). On December 22, 2015, Commission Enforcement staff sent Notice of Violation (NOV) letter No. V-5-15-0125 to the permittee for failure to provide a biological survey to the Executive Director for review prior to tree trimming and tree removal activities in non-compliance with the underlying Coastal Development Permit’s Special Condition 13, and for unpermitted removal of major vegetation, including native riparian species from Aliso Creek. This permit amendment proposes to address and resolve the unpermitted development described in the Commission’s 2015 NOV letter.

A few winter storms between January 20 to 23, 2017 caused large storm flows through the creek carrying downed vegetation (primarily dried downed Arundo grasses from the upper reaches of the creek and a non-riparian willow tree) causing erosion damage to the creek banks. During the

storm event, the applicant utilized heavy equipment perched at the top of the creek bank to remove the downed tree and large amounts of other storm downed vegetation clogging the creek and causing erosion to the creek bank. The use of heavy equipment to remove vegetation debris flow was not an action authorized through an emergency permit or with any approval from a public agency. The applicant then requested a postponement from scheduled Commission action on this CDP amendment at the February 2017 meeting to a future Commission meeting in order to assess and address creek bank erosion impacts caused by the storm and/or from the unpermitted use of heavy equipment for removal of downed vegetation from the creek/creek bank. The applicant has modified the scope of the CDP amendment application to incorporate erosion control within and along the banks of the creek.

In many cases, potential violations involving unpermitted development may be resolved administratively by the restoration of any damaged resources and mitigation for such damage. The proposed amendment would authorize: 1) restoration of areas of Aliso Creek impacted by unauthorized trimming, 2) establishment of a low-growing riparian plant palette in areas of Aliso Creek, where vegetation has been historically modified, to avoid future maintenance/disturbance in the Creek; and 3) implementation of a restoration plan to mitigate impacts of previous tree trimming/vegetation removal activities in Aliso Creek and addressing creek bank storm erosion impacts and possible impacts from the unauthorized removal of downed vegetation from the stream bank due to January 2017 winter storms.

The applicant submitted a Restoration Plan titled *“Final Restoration Plan for Tree Trimming/Removal Activities in Aliso Creek at The Ranch at Laguna Beach In Resolution to CCC Violation No. V-5-15-0125”* dated October 1, 2016 and Revised January 23, 2017 ([Exhibit #3](#)). and *“Addendum No.1 to the Final Restoration Plan for Tree Trimming/Removal Activities in Aliso Creek at The Ranch at Laguna Beach In Resolution to CCC Violation No. V-5-15-0125”* dated May 26, 2017 in response to the late January 2017 winter storms, revising the Final Restoration Plan to provide erosion control within and along the banks of Aliso Creek with the aim of ensuring long-term success of the proposed creek restoration areas. Both documents (collectively referred to herein as the “Restoration Plan”) were prepared by Glenn Lukos Associates, Inc.

The Restoration Plan proposes to refine the “Maintenance Trimming Polygons” which generally comprise the areas of the Creek where vegetation has been historically modified to ensure the golf course’s continued safe operation, and to prohibit trimming and vegetation removal in “Avoidance Areas” within the Maintenance Trimming Polygons which are outside of the golf play area and the sightlines of golfers teeing off ([Exhibit #2](#)). These “Avoidance Areas” were field reviewed by the applicant, Glenn Lukos Associates on behalf of the applicant, and Commission staff. The vantage point of each tee box and fairway was observed on site and on aerial photographs with careful consideration given to line of sight setbacks. The applicant is proposing to redraw and reduce the Maintenance Trimming Polygons to avoid areas that are not directly in conflict with line of sight requirements and to place permanent markers on the ground to define the Maintenance Trimming Polygons and map those markers using a GPS. The original Maintenance Trimming Polygons covered a total area of 2.84 acres, and the proposed new refined Maintenance Trimming Polygons would cover a smaller area totaling 2.05 acres.

The applicant is proposing to reduce future trimming of woody riparian vegetation within the newly refined, reduced-size Maintenance Trimming Polygons in a manner that would provide for continued safe play on the golf course. The proposal would allow for initial removal of 0.85 acre of woody riparian vegetation within the refined Maintenance Trimming Polygons and restoration of vegetation within these areas with a permanent cover of native low-growing riparian species that will not require routine trimming. The applicant proposes to restore and revegetate a total of 3.31 acres of native vegetation within and along the banks of Aliso Creek, and enhance the entire reach of the Creek within the subject property through ongoing removal of invasive species currently present in the Creek. The proposed Vegetation Maintenance/Mitigation Map included in the Final Restoration Plan is provided as [Exhibit #2](#) of this staff report.

Within the 2.05 acres of the newly Refined Maintenance Trimming Polygons, the applicant proposes to replace existing vegetation with native and locally found grasses, sedges, and forbs from the edge of the actively flowing channel up to the top of the creek bank and edge of the golf cart path. The low-growing species will provide a permanent cover of native vegetation within the Maintenance Trimming Polygons that will not require routine trimming, thereby reducing the frequency of maintenance within Aliso Creek. No woody vegetation removal is proposed within the newly identified 0.79-acre of “Avoidance Areas.” The applicant proposes to supplement the woody species in these Avoidance Areas with invasive species removal, new mulefat and willow cuttings, and to provide an understory of native and locally found grasses, sedges and forbs. Thus, the proposed amendment will protect and ensure a variety of riparian vegetation and habitat in these “Avoidance Areas” where vegetation trimming is prohibited.

Additional restoration of a 0.12 acre upstream reach of Aliso Creek within the property is proposed through invasive plant removal and planting of mulefat and willow cuttings to help facilitate growth of native vegetation and prevent invasive vegetation from taking over again. Success criteria for the Restoration Plan will account for restoring a functional ecosystem within and along the banks of Aliso Creek where removal of invasive species and revegetation will occur. Qualitative and quantitative performance standards are contained in the Restoration Plan. As proposed, the Restoration Plan also includes the typical 5-year Maintenance and Monitoring Plan with submittal of annual reports to the Commission Executive Director. Additionally, restoration activities are proposed to commence within 60 days of Commission issuance of the CDP amendment, or within such additional time necessary to ensure compliance with the requirements of Special Condition 13 of the underlying coastal development permit which prohibits tree/vegetation trimming or removal during the bird breeding and nesting season. Furthermore, the applicant proposes the removal of non-native invasive vegetation within the entire reach of Aliso Creek (1.52 acres of vegetation) within the property and not just within the Maintenance Trimming Polygons by cutting, treating, and removing non-native vegetation once per year in perpetuity.

In the *“Addendum No.1 to the Final Restoration Plan for Tree Trimming/Removal Activities in Aliso Creek at The Ranch at Laguna Beach In Resolution to CCC Violation No. V-5-15-0125”* dated May 26, 2017, ([Exhibit #4](#)) the applicant makes the following changes to the Restoration Plan:

- Apply a hydroseed mix with a binder to stabilize creek bank soils instead of the previously proposed hand-seeding method

- Re-work eroded soil back into eroded stream bank areas with exposed rock riprap to promote hydroseed binding
- Stabilize the creek bank slope within the 0.79-acre “Avoidance Area” and the 0.12 “Upstream Reach of Aliso Creek Area” by planting mulefat and willow cuttings along the bottom of the north bank slope in these areas
- Instead of removing iceplant patches along with all other invasive plant removal as originally proposed in the 0.35-acre “Top of Bank to Edge of Cart Path Area”, applicant now proposes to treat the existing iceplant patches with herbicide and leave the treated iceplant in place to aid in erosion control
- Sprayed/decomposing patches would provide a dense, moisture-retaining mulch suitable for the larger one-gallon container plants.

These additional activities would provide the restoration of any damaged resources and mitigate for such damage to resources along the creek banks after disturbance during the January 2017 winter storms.

Standard of Review

The City of Laguna Beach has a certified Local Coastal Program (LCP). However, as this Coastal Development Permit (CDP) was issued by the Commission as a De Novo permit matter, the Commission retains permit authority (including jurisdiction to amend the permit) instead of the City. The standard of review for the proposed development is the City of Laguna Beach certified LCP (*see* 14 CCR § 13166(c)) and since the proposed project is located between the nearest public road and the shoreline of Aliso Creek (an estuary), the proposed development must also conform to the public access and recreation policies of the Coastal Act. (*See* Pub. Res. Code § 30604(c).)

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

- The applicant appeals the Executive Director’s rejection of an amendment application (14 CCR § 13166(a)(1))
- The Executive Director determines that the proposed amendment has the potential for adverse impacts on coastal resources or public access to and along the shoreline and is thus deemed material (*Id.* § 13166(b))
- A written objection is made to the Executive Director’s determination that an amendment is immaterial and either three or more Commissioners object to the Executive Director’s determination or if the Executive Director determines the objection raises an issue of materiality (*Id.* § 13166(b)(2)-(3))

The proposed amendment was determined by the Executive Director to be material because it has the potential to adversely impact coastal resources *vis a vis* modifications to and additions of new special conditions relating to and affecting coastal resources. Staff is now recommending approval of the proposed changes to the special conditions, as modified, because staff has ultimately concluded that protection of coastal resources will not be adversely affected by the permit amendment. Thus, the development as amended conforms with the policies of the City’s certified LCP.

B. BIOLOGICAL RESOURCES

Laguna Beach General Plan Open Space/Conservation Element certified LCP Policies:

Policy 7K: Preserve as much as possible the natural character of the landscape (including coastal bluffs, hillsides and ridgelines) by requiring proposed development plans to preserve and enhance scenic and conservation values to the maximum extent possible, to minimize impacts on soil mantle, vegetation cover, water resources, physiographic features, erosion problems, and require re-contouring and replanting where the natural landscape has been disturbed.

Policy 8A: Preserve the canyon wilderness throughout the City for its multiple benefits to the community, protecting critical areas adjacent to canyon wilderness, particularly stream beds whose loss would destroy valuable resources.

Policy 8C: Identify and maintain wildlife habitat areas in their natural state as necessary for the preservation of species.

Policy 8M: When new development proposals are situated in areas adjacent to “Environmentally Sensitive Areas” as designated on the Coastal ESA Map and where these are confirmed by subsequent onsite assessment, require that development be designed and sited to prevent impacts which would degrade such areas.

Policy 9A: Promote the preservation and restoration of Laguna’s natural drainage channels, freshwater streams, lakes and marshes to protect wildlife habitat and to maintain watershed, groundwater and scenic open space.

The property is surrounded by open space, slopes and ridges covered in vegetation native to coastal canyons. The slopes along the southern bank of Aliso Creek are mapped High Value and Very High Value habitat in the City’s Open Space/Conservation Element, a component of the LCP.

The golf course on the subject site pre-dates the Coastal Act. In areas of the golf course where the fairway crosses Aliso Creek, vegetation has historically been modified to maintain the golf course use. In an effort to reduce future ongoing disturbance of vegetation within the Creek and address the unpermitted removal of major vegetation, including native riparian species from Aliso Creek event, the permittee proposes to 1) restore areas impacted by unauthorized trimming, 2) establish a low-growing riparian plant palette in areas of Aliso Creek, where vegetation has been historically modified, to avoid future maintenance/disturbance in the Creek; and 3) implement a restoration plan to mitigate impacts of previous tree trimming/vegetation removal activities in Aliso Creek and addressing impacts from the unauthorized removal of downed vegetation from the stream bank due to January 2017 winter storms.

In order to provide for future continued safe play on the golf course, the applicant proposes to initially remove a total of 0.85 acres of woody riparian vegetation within the refined 2.05 acres of Refined Maintenance Trimming Polygons and restore vegetation within these areas with a permanent cover of native low-growing riparian species that will not require routine trimming. Restoration and revegetation is proposed within an overall total of 3.31 acres along the Aliso

Creek, including the 2.05-acre Maintenance Trimming Polygons, 0.79-acre Avoidance Areas, 0.12-acre Upstream Reach, and 0.35-acre Top of Bank to Edge of Golf Cart Path Areas.

However, to fully protect the habitat value of the Creek, maintenance activities within Aliso Creek should not just be minimized or reduced, but fully eliminated in order to reduce disturbance to the riparian and creek habitats within Aliso Creek. Thus, in this amendment, the applicant proposes establishment of a low-growing riparian plant palette in areas of Aliso Creek, where vegetation has been historically modified, intended to *avoid* future maintenance/disturbance in the Creek. Therefore, the Commission proposes modifications to the original CDP **Special Condition #13** regarding a Tree Trimming and Tree Removal Policy to clearly institute a prohibition on vegetation trimming within Aliso Creek (with certain exceptions) and imposes a new **Special Condition #23** requiring the applicant to comply with their proposed Final Restoration Plan as amended in Addendum No. 1 to the Final Restoration Plan.

Public Correspondence/Comments

Staff received correspondence from Penny Elia of the Sierra Club's Save Hobo Aliso Task Force on June 27, 2017, after their review of the "Addendum No.1 to the Final Restoration Plan for Tree Trimming/Removal Activities in Aliso Creek at The Ranch at Laguna Beach In Resolution to CCC Violation No. V-5-15-0125" (public record document part of the subject amendment application file) raising concerns that the proposed Restoration Plan calls for use of *Cyperus eragrostis* commonly known as Tall Umbrella sage because it is known to occur in Aliso Canyon.

In response to these concerns, the applicant revised the plant palettes for Tables 2 and 3 of the Restoration Plan to remove this plant from the plant palette ([Exhibit #5](#)).

The Commission staff Ecologist reviewed and concurs with the chosen plant palette for the different restoration and revegetation areas contained in the proposed Final Restoration Plan. Plants selected in the palettes are species found within the property and the Aliso Creek Watershed in general. These are native and adapted to survive in the local climate. According to the applicant's consultant, the plants are well known from prior restoration efforts to favor the physical conditions onsite.

As proposed and further conditioned by the Commission, the proposed amendment to the approved development will protect biological resources, including habitat, as required by the certified LCP.

C. WATER QUALITY

Laguna Beach General Plan Open Space/Conservation Element LCP Policies:

Policy 4E Preserve Functions of Natural Drainage Systems: Ensure that development is sited and designed to limit disturbances and to preserve the infiltration, purification, retention and conveyance functions of natural drainage systems that exist on the site to the maximum extent practicable.

Policy 4I Watershed Protection and Restoration: Promote the protection and restoration of offshore, coastal, lake, stream, or wetland waters and habitats and preserve them to the maximum extent practicable in their natural state. Oppose

activities that may degrade the quality of offshore, coastal, lake, stream or wetland waters and habitat and promote the rehabilitation of impaired waters and habitat.

The proposed development involves vegetation removal and new plantings within and adjacent to Aliso Creek and therefore has a potential for discharge of sediment and polluted runoff from the project site into coastal waters. Erosion and the storage or placement of construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction and post-construction related impacts on water quality, the applicant proposes to utilize hand-held equipment such as chainsaws and machetes for vegetation removal activities. For revegetation area preparation activities, a mechanized auger including a hand-held power auger is proposed to be used to dig planting holes.

The applicant proposes best management practices (BMPs) for erosion and water quality such as use of sandbags and silt fences to protect water quality in the Creek during initial vegetation removal and planting phases per the Final Restoration Plan. BMPs used will be placed in areas where no native vegetation is growing. Sandbags and silt fences will be used to control bank erosion only on a temporary basis. No “hard” permanent erosion control measures within Aliso Creek are deemed necessary and none are proposed. The proposed planting and hydroseed mix with a binder to stabilize creek bank areas receiving seed mix will serve as a natural erosion control measure within the Creek and the Creek banks once the plantings establish. In the lower reach of the creek where the January 2017 storm event heavily eroded the creek’s north bank and exposed underlying rock rip-rap, addition of a small amount of soil will be necessary to promote hydroseed binding. These proposals are all outlined in the submitted *Final Restoration Plan for Tree Trimming/Removal Activities in Aliso Creek, The Ranch at Laguna Beach, In Resolution to CCC Violation No. V-5-15-0125*, prepared by Glenn Lukos Associates, Inc., revised January 23, 2017 and *Addendum No.1 to the Final Restoration Plan for Tree Trimming/Removal Activities in Aliso Creek at The Ranch at Laguna Beach In Resolution to CCC Violation No. V-5-15-0125* dated May 26, 2017. Accordingly, **Special Condition #23** requires the applicant to comply with their proposed Final Restoration Plan as amended in Addendum No. 1 to the Final Restoration Plan.

During a January 20-23, 2017 storm event, heavy stream flows at high velocities caused significant erosion of the creek banks. Erosion was exacerbated by downed vegetation, like a large non-riparian willow downed in the creek. However, the majority of downed vegetation mostly consisted of high volumes of Arundo grass that appear to have been dead, dried and clean cut, probably left in the creek bed by prior upstream efforts to remove this non-native invasive grass (as opposed to green Arundo grass stalks with visibly uprooted root systems or grass stalks with jagged broken off edges) which then washed downstream during the storm and got caught and clogged up the creek especially around areas such as the pedestrian bridge abutments. The applicant utilized heavy equipment such as an excavator to remove the downed vegetation from the creek. No coastal development permit was applied for or obtained to authorize the use of heavy equipment to remove storm vegetation debris within Aliso Creek. The use of such equipment may have also contributed to the damage of resources on the creek bank. As described in the paragraph above, the proposed restoration plan, for which compliance is required by **Special Condition #23**, addresses these creek bank erosion areas with “soft” instead of “hard” engineered permanent erosion control measures. Furthermore, the Commission imposes **Special**

Condition #24 requiring the applicant provide a copy of a permit issued by the California Department of Fish and Wildlife, or letter of permission, or evidence that no permit or permission is required for the development proposed by this CDP amendment.

Additionally, the applicant proposes a staging area for equipment and materials on areas devoid of vegetation away from the banks of the creek as outlined in the Final Restoration Plan. As proposed, the overall development will protect water quality as required by the certified LCP by ensuring protection against erosion of the creek bank and siltation of the creek itself.

D. PUBLIC ACCESS AND RECREATION

Laguna Beach General Plan Open Space/Conservation Element LCP Policies:

Policy 6F: Ensure that development does not encroach on access to trails nor preclude future provision of access.

Policy 6I: Provide public pedestrian access to Open Space/Recreation areas, except where it is inconsistent with public safety or the protection of fragile coastal resources.

Land Use Element Policy 6.2 states:

Preserve and encourage an increase of the City's stock of affordable motel and hotel rooms available for short-term visitors. Protect, encourage, and where feasible provide, affordable overnight accommodations.

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

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

Section 30213 states:

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

Section 30604(c) of the Coastal Act requires that permit applications for projects between the nearest public road and the shoreline of any body of water within the coastal zone include a public access and recreation finding. The proposed development is located between the nearest public road and the shoreline of the estuary of Aliso Creek, thus, the proposed development must also conform to public access and recreational policies of the Coastal Act.

The proposed permit amendment involves a proposal to minimize vegetation trimming areas in and in the vicinity of Aliso Creek and to implement a habitat restoration plan to mitigate

previous vegetation removal activities in the Creek and damage to the creek bank caused by erosion from storm flows carrying downed vegetation and possibly also caused by efforts to remove that vegetation debris from the creek. The proposed development will not have an impact on public coastal access or recreation. At the time of original permit approval, the Commission required Special Conditions Nos. 2, 5, and 6 to address public access concerns on the site by identifying a feasible public hiking trail alignment through the site (See Appendix B for underlying permit special conditions). This permit amendment will not change any of those requirements; they are still in effect.

As proposed, the Commission finds the proposed amendment consistent with the requirements of certified LCP and the public access and recreation policies of the Coastal Act.

E. UNPERMITTED DEVELOPMENT/NON-COMPLIANCE WITH CDP

Development has occurred on the subject site without benefit of a required coastal development permit, and in non-compliance with a previously issued CDP, including removal of major vegetation, including native riparian species from Aliso Creek. Because some of the trimming that was previously undertaken occurred along and within the Creek outside of the golf play areas, that work is not considered to be work that is normally associated with maintenance of the golf course, and, thus, constitutes development that requires a coastal development permit application. Additionally, in January 2017, downed vegetation due to a seasonal storm was removed from the streambank. No coastal development permit was applied for or obtained to authorize these two instances of development within Aliso Creek. Furthermore, the underlying CDP included a special condition (Special Condition 13) requiring the permittee to provide a biological survey to the Executive Director for review prior to tree trimming and tree removal activities, but no such survey was submitted to the Executive Director prior to commencement of the tree trimming that is described above, in non-compliance with the CDP. The development that was undertaken without benefit of the necessary authorizations, and the development undertaken in non-compliance with a previously issued CDP, all of which are described above, constitute violations of the Coastal Act.

The applicant proposes to resolve these Coastal Act violations through this Coastal Development Permit Amendment application by proposing a habitat restoration plan titled *Final Restoration Plan for Tree Trimming/Removal Activities in Aliso Creek, The Ranch at Laguna Beach, In Resolution to CCC Violation No. V-5-15-0125*, revised January 23, 2017 and *Addendum No. 1 to the Final Restoration Plan for Tree Trimming/Removal Activities in Aliso Creek within The Ranch at Laguna Beach in Resolution to CCC Violation No. V-5-15-0125* dated May 26, 2017 both prepared by Glenn Lukos Associates, Inc. (collectively, the “Restoration Plan”). Staff recommends a modification to **Special Condition #13** to prohibit vegetation trimming within Aliso Creek, a new **Special Condition #23** requiring compliance with the proposed Restoration Plan, and **Special Condition #24** requiring the applicant to provide verification that all other permits, permissions, or approvals that may be necessary to carry out the proposed work within Aliso Creek have been granted by other pertinent public agencies (e.g., compliance with CDFW Streambed Agreement) prior to amendment of this CDP.

Additionally, to ensure that the unpermitted development components of this application are resolved in a timely manner, **Special Condition #25** requires that the applicant satisfy all

conditions of this permit, as amended, within 90 days of Commission action. The Executive Director may grant additional time for good cause.

Amendment of the CDP and compliance with all of the terms and conditions of this CDP as revised will result in resolution of the Coastal Act violations described herein. Commission review and action on this CDP does not constitute an implied statement of the Commission's position regarding the legality of any development undertaken on the site without a CDP that is not addressed herein. Except as expressly provided herein, nothing in this CDP shall limit or restrict the exercise of the Commission's enforcement authority pursuant to Chapter 9 of the Coastal Act, including the authority to require and enforce compliance with this CDP.

Although development has taken place prior to submission of this permit application and in non-compliance with a previously-issued CDP, consideration of whether the proposed development could be approved by the Commission has been based solely on the consistency of the proposed development with the policies of the certified Laguna Beach LCP and the public access and recreation policies of the Coastal Act. Amendment of this CDP is possible only because of the conditions included herein, and failure to comply with these conditions despite undertaking development pursuant to this permit would also constitute a violation of this CDP and of the Coastal Act and may result in institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

Under Section 15251(c) of Title 14 of the California Code of Regulations, the Commission's CDP regulatory process has been certified as the functional equivalent to the CEQA process. The proposed CDP amendment requests approval to define "Revised Maintenance Trimming Polygons," to establish a low-growing riparian plant palette in the "Revised Maintenance Trimming Polygons" in order to avoid future maintenance/disturbance in the Creek; and to implement a Restoration Plan to mitigate impacts of previous unauthorized tree trimming/vegetation removal activities in Aliso Creek and to address unauthorized impacts from the removal of downed vegetation from the creek bank due to January 2017 winter storms. The proposed permit amendment has been modified and conditioned to assure the proposed project is consistent with the resource protection policies of the Coastal Act. The new and modified conditions also serve to mitigate any potential significant adverse impacts under CEQA that may result from amendment of this coastal development permit. The conditions are: a) modifications to the permit's underlying Tree Trimming and Tree Removal Policy; b) Compliance with a Restoration Plan and c) Condition Compliance.

There are no other feasible alternatives or mitigation measures available which will lessen any significant adverse impact the activity would have on the environment. Therefore, the

A-5-LGB-14-0034-A1 (Laguna Beach Golf and Bungalow Village, LLC)

Commission finds that the proposed permit amendment, as modified and conditioned, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

City of Laguna Beach LCP

CDP A-5-LGB-14-0034-A1 (Laguna Beach Golf and Bungalow Village, LLC)

Conceptual Restoration Plan for Tree Trimming/Removal Activities in Aliso Creek, The Ranch at Laguna Beach, In Resolution to CCC Violation No. V-5-15-0125, prepared by Glenn Lukos Associates, Inc., dated October 1, 2016.

Final Restoration Plan for Tree Trimming/Removal Activities in Aliso Creek, The Ranch at Laguna Beach, In Resolution to CCC Violation No. V-5-15-0125, prepared by Glenn Lukos Associates, Inc., dated January 23, 2017.

Addendum No. 1 to the Final Restoration Plan for Tree Trimming/Removal Activities in Aliso Creek within The Ranch at Laguna Beach in Resolution to CCC Violation No. V-5-15-0125 prepared by Glenn Lukos Associates, Inc., dated May 26, 2017.

APPENDIX B - ORIGINAL COASTAL DEVELOPMENT PERMIT STANDARD AND SPECIAL CONDITIONS APPROVED BY THE COMMISSION ON JANUARY 8, 2015

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, then 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 and 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.

SPECIAL CONDITIONS

1. **Mitigation for Impacts on Affordable/Lower Cost Overnight Accommodations & Visitor and Recreational Facilities.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall mitigate the proposed project's impacts on affordable overnight accommodations and lower cost visitor and recreational facilities by implementing the following:
 - A. In addition to the proposed Offer to Dedicate trail easement and group camping at the Scout Camp, the applicant shall pay a \$250,000 fee in-lieu of providing lower-cost overnight accommodations and visitor recreational facilities as described in Special Condition 2 to include a Memorandum of Understanding with an approved party subject to the review and approval of the Executive Director,
 - B. The applicant shall agree to record the proposed Offer to Dedicate in accordance with Special Condition 5; and implement the proposed group camping at the Scout Camp in accordance with Special Condition 7, and
 - C. The applicant shall install microwaves in all 97 rooms and ensure that at least 32 of the 97 newly renovated rooms can accommodate 4 or more guests with the provision of sleeper sofas.
2. **In-lieu Fee as Mitigation for Impacts on Affordable/Lower Cost Overnight Accommodations & Visitor and Recreational Facilities.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall pay a fee for not providing lower-cost overnight hotel units on the project site.
 - A. The required total in-lieu fee of \$250,000 shall be deposited into an interest-bearing account, to be established and managed by one of the following entities approved by the Executive Director of the Coastal Commission: City of Laguna Beach, Orange County Parks, California Coastal Conservancy, California Department of Parks and Recreation, or a similar entity. The purpose of the account shall be for planning and permitting of a pedestrian and cycling trail, including identification of a trail alignment, with any funds remaining after planning is completed to be used for trail construction and maintenance. The entire fee and accrued interest shall be used for the above stated purpose, in consultation with the Executive Director, within ten years of the fee being deposited into the account. All development funded by this account will require review and approval by the Executive Director of the Coastal Commission and a coastal development permit. If any portion of the fee remains ten years after it is deposited, it shall be donated to one or more of the State Park units or non-profit entities providing lower cost visitor amenities in a Southern California coastal zone jurisdiction or other organization acceptable to the Executive Director. Alternative mitigation may include completion of a specific project that is comparable in cost to the amount of the in-lieu fee and makes a substantial contribution to the availability of lower cost visitor recreational facilities in Laguna Beach and/or other parts of the coastal zone of Orange County, subject to the review and written approval of the Executive Director.

B. Prior to expenditure of any funds contained in this account, the Executive Director shall review and approve, in writing, the proposed use of the funds as being consistent with the intent and purpose of this condition. In addition, the entity accepting the in-lieu fee funds required by this condition shall enter into a memorandum of understanding (MOU) with the Commission, which shall include, but not be limited to, the following: 1) a description of how the funds will be used to identify a trail alignment including planning, permitting and construction of the trail; 2) the terms provided in subsection A of this condition; and 3) an agreement that the entity accepting the funds will obtain all necessary regulatory permits and approvals, including but not limited to, a coastal development permit for development of the trail required by this condition.

3. [This Condition Deleted].

4. [This Condition Deleted].

5. **Offer to Dedicate Easement for a Public Pedestrian and Cycling Trail**

A. Offer to Dedicate Recordation. NO LATER THAN 90 DAYS FOLLOWING ISSUANCE OF A CERIFICATE OF OCCUPANCY OF THE APPROVED DEVELOPMENT, the land owner(s) shall execute and record document(s) in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency(ies) or non-profit entity(ies) acceptable to the Executive Director, a floating easement for a public pedestrian and cycling trail generally located along the northerly side of the Property ("Easement Area"). The recorded document(s) shall include metes and bounds legal descriptions and corresponding graphic depictions prepared by a licensed surveyor of both the applicant's entire parcel(s) and the easement areas. The offer shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. Any development, as defined in Section 30106 of the Coastal Act, that diminishes permanent pedestrian and cycling access and passive recreational use of the easement area is prohibited. The Easement Area offered by the applicant is generally depicted on the plan titled "RANCH Temporary Shuttle and Hiking/Biking Trail Easement Locations," prepared by Morris Skendarian & Associates, A.I.A, and dated December 12, 2014, and received in the Commission's offices on December 15, 2014. The Executive Director may extend, in writing, for good cause the 90-day period for execution and recordation of the offer.

B. Alignment of Public Access Easements. Upon acceptance of the offered dedication described in Part A of this condition, the accepting entity shall determine the exact alignment of the public pedestrian and cycling trail within the Easement Area. The determination shall be based on a site-specific analysis of the environmental conditions existing at the time and physical improvements related to construction of the public pedestrian and cycling trail, and would be subject to an amendment to this permit or a separate Coastal Development Permit, as determined by the Executive Director of the Commission.

C. **Public Trail Access Easement Management.** Once the offered dedication described in Part A of this condition has been accepted, management and maintenance of the Easement Area and physical improvements constructed within the Easement Area shall be the responsibility of the accepting entity. The accepting entity may receive assistance and enter into partnerships with public entities, conservation organizations, and nonprofit groups for the construction, management, and maintenance of the Easement Area and physical improvements.

6. **Alternative Trail Alignment.** Nothing in this coastal development permit shall be construed as precluding the consideration of any public trail alignment alternatives to connect the Aliso and Wood Canyons Wilderness Park to Aliso Beach through the Ranch property that is the subject of this permit, including an alignment that may be partially or wholly located outside the easement offered pursuant to Special Condition 5.
7. **Group Camping at Scout Camp.** As proposed by the applicant and to mitigate the impact of the proposed development on affordable overnight accommodations, by acceptance of this coastal development permit, the applicant and all successors and assigns agree to host at least 12 overnight, small group (40 person maximum) camping experiences at the Scout Camp per year, at no cost. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a group camping management plan that includes, but is not limited to, the following:
 - A. Methods to be utilized for advertising to non-profit groups including but not limited to underprivileged youths, scouting organizations and the like;
 - B. Mechanisms for booking a minimum of 12 groups per year;
 - C. Method for accounting and reporting use of the campsite to the Executive Director annually; and
 - D. Provision of all camping equipment necessary to support the overnight campout, including, but not limited to, tents, sleeping bags, etc.

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

8. **Parking.** The permittee shall make a minimum of 214 parking spaces available during regular operations of the hotel, restaurant and golf course. During all hours of operation for assembly events, the permittee shall provide 290 parking spaces by operation of the valet parking program described in the *Aliso Creek Inn & Golf Course Project Traffic Impact and Parking Analysis* dated April 16, 2014.
9. **Fitness Center.** The new fitness center shall only be available to hotel guests. The fitness center shall not be available to non-hotel guests unless the applicant can provide parking onsite for this use consistent with the requirements of the City of Laguna Beach Municipal Code.

10. **Assembly Use.** Only one event may be held on the property at any time that would increase the parking requirement up to the maximum number of spaces that can be provided onsite consistent with the valet parking program detailed in the April 16, 2014 *Aliso Creek Inn & Golf Course Project Traffic Impact and Parking Analysis*.
11. **Removal and Revegetation Plan for Scout Camp Parcel.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director, a final removal and revegetation plan describing the removal of unpermitted development, except the approximately 7,000 square foot concrete pad, within 100 feet of Aliso Creek in the Scout Camp parcel and replanting of the removal area. Post and cable fencing shall be installed 25 feet from the top of bank of Aliso Creek and from native scrub habitat to prevent intrusion into these buffer zones. The revised plan shall be consistent with the recommendations contained in the Memorandum titled Biological Analysis of the Proposed Restoration at the Scout Camp area of The Ranch in Laguna Beach, dated December 17, 2014 by Dr. Koteen and attached to the staff report dated December 23, 2014 as Exhibit 14. The applicants shall replace any Eucalyptus trees removed pursuant to Dr. Koteen's recommendation with native trees. The final plan shall identify the Eucalyptus to be removed and the tree species that will replace the Eucalyptus.

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

12. **Camping and Event Use at the Scout Camp.** The Scout Camp parcel may be used for events, including small group (40 or fewer people) overnight camping, subject to the following restrictions:
 - A. The City of Laguna Beach determines that use of the site for events is consistent with Chapter 25.42 of the Municipal Code;
 - B. Events will be limited to daytime use only;
 - C. Events will be limited to a maximum of 150 people;
 - D. The total number of events per month will not exceed twelve (12), including primitive camping experiences;
 - E. Fencing (e.g., post and cable) shall be installed 25 feet from the top of bank of Aliso Creek and from native scrub habitat to prevent intrusion into these buffer zones;
 - F. Tear down of events shall be completed within 2 hours after sunset, but no later than 2200 hours (10 PM);
 - G. Decibel levels will be maintained at 65db or lower at the property line; and
 - H. There shall be no glare or light intrusion into surrounding native habitat areas.

In addition, and PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the following plans must be submitted for review and approval of the Executive Director:

- I. A noise management plan describing how decibel limits will be monitored and enforced;

- J. A lighting plan including hours of use and only temporary LED low level decorative lighting fully shielded toward the sky and consistent with the Laguna Beach lighting ordinances for any luminaires and lamps to be used during event tear down and camping events;
- K. A landscaping plan for the area of the Scout Camp outside the 100 foot removal and revegetation buffer, including a planting palette; and
- L. A group camping management plan, consistent with the requirements of Special Condition 7.

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

13. **Tree Trimming and Tree Removal Policy.** This coastal development permit approves annual and emergency tree trimming activities consistent with the following policy:

The purpose of this policy is to ensure the protection of bird nesting habitat protected by the Migratory Bird Treaty Act and the long-term protection of breeding, roosting, and nesting habitat of state and federally listed bird species, California bird species of special concern, and bird species that play an especially valuable role in the ecosystem. This policy is also intended to ensure the protection of roosting California bat species of special concern and wintering Monarch butterflies. The permittee is obligated to trim trees for the safety of the public and the protection of property. The trimming or removal of any tree that has been used for bird breeding and nesting or bat or butterfly roosting within the past five years, determined by a qualified biologist, shall be undertaken in compliance with all applicable codes or regulations of the California Department of Fish and Wildlife, the U.S. Fish and Wildlife Service and the U.S. Migratory Bird Treaty Act, and shall be conducted under the parameters described below.

Tree trimming or tree removal shall be prohibited during the breeding and nesting season of the bird species referenced above (February 1 through August 31) unless the permittee, in consultation with a qualified arborist, determines that a tree causes danger to public health and safety. A health and safety danger exists if an independent qualified arborist in consultation with a qualified biologist determines that a tree or branch is dead, diseased, dying, or injured and said tree or branch is in imminent danger of collapse or breaking away. The permittee shall be proactive in identifying and addressing diseased, dying or injured trees as soon as possible in order to avoid habitat disturbances during bird nesting season. Trees or branches with a nest that has been active anytime within the last five years shall not be removed or disturbed unless a health and safety danger exists.

Prior to trimming, a qualified biologist shall determine if trees are being used by roosting bats or wintering butterflies. If bats are found on a particular tree, or have been found in the previous five years, tree trimming should be confined to November and December when bats are least active. Tree trimming shall not occur on trees occupied by butterflies, or on trees within 300 ft. of occupied trees, until after the butterflies have migrated from the

region. If Monarch butterflies do begin to overwinter in trees at The Ranch, a qualified Monarch biologist must develop a habitat protection and maintenance plan prior to trimming any trees within the roosting grove.

The removal of any tree with documented use for raptor nesting, bat roosting, or Monarch wintering shall require mitigation at a 1:1 ratio. A tree replacement planting plan for each tree replacement shall be developed to specify replacement tree location, tree type, tree size (no less than 36" box size), planting specifications, and a five-year monitoring program with specific performance standards. An annual monitoring report for tree replacement shall be submitted for the review and approval of the Executive Director of the Coastal Commission. The permittee shall maintain the annual reports on file as public information and to be used for future tree trimming and removal decisions.

A. Tree Trimming During Non-Breeding and Non-Nesting Season (October through December)

- 1) Prior to tree trimming or removal, a qualified biologist or ornithologist shall survey the trees to be trimmed or removed to detect nests and submit a survey report to the permittee and the Executive Director of the Coastal Commission. The survey report shall include identification of all trees with nests. The permittee shall maintain a database of survey reports that includes a record of nesting trees that is available as public information and to be used for future tree trimming and removal decisions.
- 2) Any trimming of trees with nests shall be supervised by a qualified biologist or ornithologist and a qualified arborist to ensure that adequate nest support and foliage coverage is maintained in the tree, to the maximum extent feasible, in order to preserve the nesting habitat. Trimming of any nesting trees shall occur in such a way that the support structure of existing nests will not be trimmed and existing nests will be preserved, unless the permittee, in consultation with a qualified arborist, determines that such trimming is necessary to protect the health and safety of the public. The amount of trimming at any one time shall be limited to preserve the suitability of the nesting tree for breeding and/or nesting habitat. Trees or branches with a nest that has been active anytime within the last five years shall not be removed or disturbed unless a health and safety danger exists, as defined in this special condition, above.
- 3) Trimming may not proceed if a nest is found and evidence of courtship or nesting behavior is observed at the site. In the event that any birds continue to occupy trees during the non-nesting season, trimming shall not take place until a qualified biologist or ornithologist has assessed the site, determined that courtship behavior has ceased, and given approval to proceed within 300 feet of any occupied tree.

B. Tree Trimming or Removal During Breeding and Nesting Season (February 1 through August 31). If tree trimming or removal activities cannot feasibly avoid the breeding season because a health and safety danger exists, the following guidelines must be followed:

- 1) A qualified biologist or ornithologist shall conduct surveys and submit a report at least one week prior to the trimming or removal of a tree (only if it is posing a health or safety danger) to detect any breeding or nesting behavior in or within 300 feet of the work area. A tree trimming and/or removal plan shall be prepared by a

qualified arborist in consultation with the qualified biologist or ornithologist. The survey report and tree trimming and/or removal plan shall be submitted for the review and approval of the Executive Director of the Coastal Commission, the California Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, and the applicant. The applicant shall maintain the plans on file as public information and to be used for future tree trimming and removal decisions. The plan shall incorporate the following:

- a. A description of how work will occur.
 - b. Work must be performed using non-mechanized hand tools to the maximum extent feasible.
 - c. Limits of tree trimming and/or removal shall be established in the field with flagging and stakes or construction fencing.
 - d. Steps shall be taken to ensure that tree trimming will be the minimum necessary to address the health and safety danger while avoiding or minimizing impacts to breeding and nesting birds and their habitat.
- 2) Prior to commencement of tree trimming and/or removal the applicant shall notify in writing the Executive Director of the Coastal Commission, the California Department of Fish and Wildlife, and the U.S. Fish and Wildlife Service of the intent to commence tree trimming or removal.

C. Eucalyptus Tree Trimming or Removal

- 1) Prior to tree trimming or removal, a qualified biologist shall survey the trees to be trimmed or removed to detect evidence of bat roosting and submit a survey report to the permittee and the Executive Director of the Coastal Commission. The survey report shall include identification of all trees with evidence of bat roosting. The permittee shall maintain a database of survey reports that includes a record of roosting trees that is available as public information and to be used for future tree trimming and removal decisions.
- 2) Any trimming of trees with evidence of bat roosting shall be supervised by a qualified biologist and a qualified arborist to ensure that adequate foliage coverage is maintained in the tree, to the maximum extent feasible, in order to preserve the roosting habitat, unless the permittee, in consultation with a qualified arborist, determines that such trimming is necessary to protect the health and safety of the public. The amount of trimming at any one time shall be limited to preserve the suitability of the roosting tree for bat roosting habitat. Trees or branches with evidence of active roosting anytime within the last five years shall not be removed or disturbed unless a health and safety danger exists, as defined in this special condition, above.
- 3) Trimming may not proceed if roosting is observed at the site until a qualified biologist has assessed the site and given approval to proceed within 300 feet of any occupied tree.

D. Tree Trimming or Removal During Monarch Roosting Season (September through February). If tree trimming or removal activities cannot feasibly avoid the overwintering season because a health and safety danger exists, the following guidelines must be followed:

- 1) A qualified biologist shall conduct surveys and submit a report at least one week prior to the trimming or removal of a tree (only if it is posing a health or safety

danger) to detect any monarch roosting behavior in or within 300 feet of the work area. A tree trimming and/or removal plan shall be prepared by a qualified arborist in consultation with the qualified biologist. The survey report and tree trimming and/or removal plan shall be submitted for the review and approval of the Executive Director of the Coastal Commission, the California Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, and the applicant. The applicant shall maintain the plans on file as public information and to be used for future tree trimming and removal decisions. The plan shall incorporate the following:

- a. A description of how work will occur.
 - b. Work must be performed using non-mechanized hand tools to the maximum extent feasible.
 - c. Limits of tree trimming and/or removal shall be established in the field with flagging and stakes or construction fencing.
 - d. Steps shall be taken to ensure that tree trimming will be the minimum necessary to address the health and safety danger while avoiding or minimizing impacts to roosting monarchs or their habitat.
- 2) Prior to commencement of tree trimming and/or removal the applicant shall notify in writing the Executive Director of the Coastal Commission, the California Department of Fish and Wildlife, and the U.S. Fish and Wildlife Service of the intent to commence tree trimming or removal.

All tree trimming and tree removal shall be conducted in strict compliance with this policy. All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location. Any proposed change or deviation from the approved policy must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required.

14. **Resource Agencies.** The permittee shall comply with all requirements, requests and mitigation measures from the California Department of Fish and Wildlife, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.
15. **Construction Best Management Practices.**
- A. The permittee shall comply with the following construction-related requirements:
- 1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
 - 2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
 - 3) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into stream or coastal waters;
 - 4) Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control dust and sedimentation impacts to stream or coastal waters during

construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into stream or coastal waters; and

- 5) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

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

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

16. Final Water Quality Management Plan.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit for the review and approval of the Executive Director, two (2) copies of a Final Water Quality Management Plan (WQMP) for the post-construction project site, prepared by a licensed water quality professional, and shall include plans, descriptions, and supporting calculations. The WQMP shall be in substantial conformance with the Water Quality Management Plan (WQMP) dated August 25, 2014 prepared by Adam L. Toal, and shall include all development approved by this permit, including the development at the Scout Camp. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- 1) The WQMP shall incorporate appropriate structural and non-structural Best Management Practices (BMPs) (site design, source control and treatment control) into the development, designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site;
- 2) Impervious surfaces, especially directly connected impervious areas, shall be minimized, and alternative types of pervious pavement shall be used where feasible;
- 3) Trash, recycling and other waste containers, as necessary, shall be provided. All waste containers anywhere within the development shall be covered, watertight, and designed to resist scavenging animals;

- 4) Runoff from all roofs, roads and parking areas shall be collected and directed through a system of structural BMPs including vegetated areas and/or gravel filter strips or other vegetated or media filter devices. The system of BMPs shall be designed to a) trap sediment, particulates and other solids and b) remove or mitigate pollutants of concern (including trash, debris and vehicular fluids such as oil, grease, heavy metals and hydrocarbons) through infiltration, filtration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff from the developed site in a non-erosive manner;
- 5) Post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs;
- 6) All structural and/or treatment control BMPs shall be designed, installed, and maintained for the life of the project in accordance with well-recognized and accepted design principles and guidelines, such as those contained in the California Stormwater Quality Association Best Management Practice Manuals;
- 7) At a minimum, all BMP traps/separators and/or filters shall be, at a minimum, inspected and cleaned/repared or otherwise maintained in accordance with the following schedule: (a) prior to the start of the winter storm season, no later than October 15th each year, (b) inspected monthly thereafter for the duration of the rainy season (October 15 -April 30), and cleaned/maintained as necessary based on inspection and, (c) inspected and maintained where needed throughout the dry season;
- 8) Debris and other water pollutants removed from structural BMP(s) during clean out shall be contained and disposed of in a proper manner;
- 9) It is the permittee's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specifications.

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

17. Area of Potential Archaeological Significance.

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

- 1) If any cultural deposits are discovered during project construction, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or artifacts, the permittee shall carry out significance testing of said deposits and, if cultural deposits are found to be significant, additional investigation and mitigation in accordance with this special condition including all subsections. No significance testing, investigation or mitigation shall

- commence until the provisions of this special condition are followed, including all relevant subsections;
- 2) If any cultural deposits are discovered, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or artifacts, all construction shall cease in accordance with subsection B of this special condition;
 - 3) In addition to recovery and reburial, in-situ preservation and avoidance of cultural deposits shall be considered as mitigation options, to be determined in accordance with the process outlined in this condition, including all subsections;
 - 4) Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, Native American monitor(s) with documented ancestral ties to the area appointed consistent with the standards of the Native American Heritage Commission (NAHC), and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD, shall monitor all project grading that has any potential to uncover or otherwise disturb cultural deposits;
 - 5) The permittee shall provide sufficient archeological and Native American monitors to assure that all project grading that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times;
 - 6) If human remains are encountered, the permittee shall comply with applicable State and Federal laws. Procedures outlined in the monitoring plan shall not prejudice the ability to comply with applicable State and Federal laws, including but not limited to, negotiations between the landowner and the MLD regarding the manner of treatment of human remains including, but not limited to, scientific or cultural study of the remains (preferably non-destructive); selection of in-situ preservation of remains, or recovery, repatriation and reburial of remains; the time frame within which reburial or ceremonies must be conducted; or selection of attendees to reburial events or ceremonies. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Where appropriate and consistent with State and Federal laws, the treatment of remains shall be decided as a component of the process outlined in the other subsections of this condition.
 - 7) Prior to the commencement and/or re-commencement of any monitoring, the permittee shall notify each archeological and Native American monitor of the requirements and procedures established by this special condition, including all subsections. Furthermore, prior to the commencement and/or re-commencement of any monitoring, the permittee shall provide a copy of this special condition, the archeological monitoring plan approved by the Executive Director, and any other plans required pursuant to this condition and which have been approved by the Executive Director, to each monitor.

B. If an area of cultural deposits, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or artifacts, is discovered during the course of the project, all construction activities in the area of the discovery that has any potential to uncover or otherwise disturb cultural deposits in the area of the discovery and all construction that may foreclose mitigation options or the ability to implement the requirements of this condition shall cease and shall not recommence except

as provided in subsection C and other subsections of this special condition. In general, the area where construction activities must cease shall be 1) no less than a 100 foot wide buffer around the cultural deposit; and 2) no more than the commercial development area within which the discovery is made.

C. An applicant seeking to recommence construction following discovery of the cultural deposits shall submit a Significance Testing Plan for the review and approval of the Executive Director. The Significance Testing Plan shall identify the testing measures that will be undertaken to determine whether the cultural deposits are significant. The Significance Testing Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), and the Most Likely Descendent (MLD) when State Law mandates identification of a MLD.

- 1) If the Executive Director approves the Significance Testing Plan and determines that the Significance Testing Plan's recommended testing measures are de minimis in nature and scope, the significance testing may commence after the Executive Director informs the permittee of that determination.
- 2) If the Executive Director approves the Significance Testing Plan but determines that the changes therein are not de minimis, significance testing may not recommence until after an amendment to this permit is approved by the Commission.
- 3) Once the measures identified in the significance testing plan are undertaken, the permittee shall submit the results of the testing to the Executive Director for review and approval. The results shall be accompanied by the project archeologist's recommendation as to whether the findings are significant. The project archeologist's recommendation shall be made in consultation with the Native American monitors and the MLD when State Law mandates identification of a MLD. The Executive Director shall make the determination as to whether the deposits are significant based on the information available to the Executive Director. If the deposits are found to be significant, the permittee shall prepare and submit to the Executive Director a supplementary Archeological Plan in accordance with subsection D of this condition and all other relevant subsections. If the deposits are found to be not significant, then the permittee may recommence grading in accordance with any measures outlined in the significance testing program.

D. An applicant seeking to recommence construction following a determination by the Executive Director that the cultural deposits discovered are significant shall submit a supplementary Archeological Plan for the review and approval of the Executive Director. The supplementary Archeological Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), the Most Likely Descendent (MLD) when State Law mandates identification of a MLD, as well as others identified in subsection E of this condition. The supplementary Archeological Plan shall identify proposed investigation and mitigation measures. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Mitigation measures considered may range from in-situ preservation to recovery and/or relocation. A good faith effort shall be made to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, capping, and placing cultural resource areas in open space. In

order to protect cultural resources, any further development may only be undertaken consistent with the provisions of the Supplementary Archaeological Plan.

- 1) If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after the Executive Director informs the permittee of that determination.
- 2) If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.

E. Prior to submittal to the Executive Director, all plans required to be submitted pursuant to this special condition, except the Significance Testing Plan, shall have received review and written comment by a peer review committee convened in accordance with current professional practice that shall include qualified archeologists and representatives of Native American groups with documented ancestral ties to the area. Names and qualifications of selected peer reviewers shall be submitted for review and approval by the Executive Director. The plans submitted to the Executive Director shall incorporate the recommendations of the peer review committee. Furthermore, upon completion of the peer review process, all plans shall be submitted to the California Office of Historic Preservation (OHP) and the NAHC for their review and an opportunity to comment. The plans submitted to the Executive Director shall incorporate the recommendations of the OHP and NAHC. If the OHP and/or NAHC do not respond within 30 days of their receipt of the plan, the requirement under this permit for that entities' review and comment shall expire, unless the Executive Director extends said deadline for good cause. All plans shall be submitted for the review and approval of the Executive Director.

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

18. **Submittal of Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director two (2) sets of final architectural plans, grading plans, drainage and run-off control plans, and landscaping plans that substantially conform with the plans submitted to the Commission on June 17, 2014 and August 18, 2014, with the addition of development at the Scout Camp.

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

19. **Future Improvements.** This permit is only for the development described in Coastal Development Permit A-5-LGB-14-0034. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to this development governed by the Coastal Development Permit A-5-LGB-14-0034. Accordingly, any future improvements to the structures authorized by this permit, including but not limited to, repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit A-5-LGB-14-0034 from the Commission.
20. **Landscaping – Drought Tolerant, Non-Invasive Plants.** No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a ‘noxious weed’ by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://ucanr.edu/sites/WUCOLS/>).
21. **Liability for Costs and Attorneys Fees.** By acceptance of this permit, the applicant/permittee agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the applicant/permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.
22. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (a) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (b) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.