

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

Application No.: 5-17-0607

Applicant: Roger G. Worthington

Agent: CJ Light & Associates

Location: 207 Calle Conchita, San Clemente, Orange County
(APN: 692-261-04)

Project Description: Demolition of a 2,658 sq. ft. single-family residence, and construction of an approximately 5,640 sq. ft., 24.8 ft. high two-story single-family residence over a partially subterranean basement (three-level residence), an attached 585 sq. ft. two-car garage, decks and patios, outdoor spa, and hardscape and landscape improvements on a canyon-top lot.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION:

The proposed project includes the construction of a new single-family residence in a residentially developed area on a canyon lot directly adjacent to Trafalgar Canyon in the City of San Clemente. The proposed project raises issues regarding hazards concerning canyon top development, water quality, impacts to visual coastal resources, and compatibility with the existing character of the area.

The proposed new residence satisfies more than one setback requirement as outlined in the City's certified Coastal Land Use Plan; it conforms to the minimum 15 ft. canyon edge setback and the 15 ft. setback from the line of native vegetation along the slope. Accessory and hardscape improvements including walls and patios conform to the 5 ft. setback from the canyon edge for accessory structures. In addition, the proposed development is located within an existing developed area and is compatible with the character and scale of the surrounding area. Based on the

geotechnical information provided by the applicant, the proposed development will be safe for the anticipated life of the structure.

The proposed development has been conditioned to assure that the proposed project is consistent with the Chapter 3 policies of the Coastal Act. The conditions are: **1)** recommendations of the geotechnical report; **2)** best management practices; **3)** pool/spa protection plan; **4)** assumption of risk, waiver of liability and indemnity; **5)** future development; **6)** landscaping – drought-tolerant, non-invasive plants; **7)** timing and operational constraints; **8)** submittal of Orange County Fire Authority (OCFA) approval; **9)** biological monitor; **10)** fuel modification plan; and **11)** deed restriction.

Staff is recommending **APPROVAL** of coastal development permit 5-17-0607, as conditioned.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of San Clemente only has a certified Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Land Use Plan may be used for guidance.

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APPENDICES

Appendix A - Substantive File Documents

EXHIBITS

Exhibit 1 – Project Location

Exhibit 2 – Project Plans

Exhibit 3 – Conceptual Fuel Modification Plan

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 5-17-0607 in accordance with the staff recommendations.*

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

Resolution:

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

II. STANDARD CONDITIONS:

This permit is granted subject to the following standard conditions:

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

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS:

This permit is granted subject to the following special conditions:

1. **Conformance with Geotechnical Recommendations.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director's review and approval, along with two (2) full-sized sets of each plan, evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans in substantial conformance with the preliminary plans submitted to the South Coast District office on April 19, 2018, and certified that each of those final plans is consistent with all the recommendations contained in the geologic reports prepared by EGA Consultants, LLC dated April 21, 2017 and November 9, 2017 for 207 Calle Conchita, San Clemente, CA.

2. **Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris**

The permittee shall comply with the following construction-related requirements:

- (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
- (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
- (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- (f) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- (g) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.

- (h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
 - (i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
 - (j) The discharge of any hazardous materials into any receiving waters shall be prohibited.
 - (k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures 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. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
 - (l) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity.
 - (m) 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.
 - (n) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.
 - (o) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
3. **Pool/Spa Protection Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director, two (2) full size sets of a pool/spa protection plan prepared by an appropriately licensed professional that incorporates mitigation of the potential for geologic instability caused by leakage from the proposed pool/spa. The pool/spa protection plan shall incorporate and identify on the plans the following measures, at a minimum: 1) installation of a pool/spa leak detection system such as, but not limited to, leak detection system/moisture sensor with alarm and/or a separate water meter for the spa which is separate from the water meter for the house to allow for the monitoring of water usage for the pool/spa, and 2) use of materials and pool/spa design

features, such as but not limited to double linings, plastic linings or specially treated cement, to be used to waterproof the undersides of the spa to prevent leakage, along with information regarding the past and/or anticipated success of these materials in preventing leakage; and where feasible 3) installation of a sub drain or other equivalent drainage system under the pool/spa that conveys any water leakage to an appropriate drainage outlet. The applicant shall comply with the final pool/spa plan approved by the Executive Director.

4. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from bluff and slope instability, erosion, landslides, fires, or other natural hazards; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
5. **Future Improvements.** This permit is only for the development described in Coastal Development Permit No. 5-17-0607. 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 No. 5-17-0607. 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 No. 5-17-0607 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
6. **Landscaping – Drought Tolerant, Non-Invasive Plans.**
 - A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, in a form and content acceptable to the Executive Director, two (2) full size sets of final landscaping plans, which shall include and be consistent with the following:
 - i. Vegetated landscaped areas within the canyon portion of the project site disturbed during construction shall be re-vegetated to avoid erosion and shall only consist of drought tolerant and non-invasive plants native to coastal Orange County and appropriate to the habitat type. Native plants shall be from local stock wherever possible. No permanent irrigation system shall be allowed within the canyon portion of the project site; temporary, above-ground irrigation to allow the establishment of the plantings is allowed.
 - ii. Vegetated landscaped areas on the street-side of the residence are encouraged to use native plant species; however, non-native drought tolerant non-invasive plant species may also be used in that area. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant

Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf> and <http://ucanr.edu/sites/WUCOLS/files/183488.pdf>).

iii. Use of reclaimed water for irrigation is encouraged. If using potable water for irrigation, only drip or microspray irrigation systems may be used. Other water conservation measures shall be considered, such as weather based irrigation controllers.

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

7. **Tree Trimming and Removal.** One week prior to any tree trimming or tree removal associated with the proposed development plan, a survey shall be conducted by a qualified biologist to ensure that no breeding or nesting birds are present in the subject trees. Should a nest site(s) be located, all tree trimming and removal shall cease until the nest(s) is/are naturally vacated, and juveniles have fledged without human or mechanical interference, and there is no longer evidence of any further-attempt(s) at nesting.
8. **Fuel Modification Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall provide to the Executive Director a final revised Fuel Modification Plan for the proposed new structure noting the rare plant species (i.e. members of *Rhus integrifolia* Shrubland Alliance) that occupy the canyon slope and identifying it as plants to be retained within the fuel modification area. The plan shall include the minimum required area for fuel modification from the structure depending on vegetation type, density, slope and aspect. The plan shall retain existing native vegetation (i.e. *Rhus integrifolia* Shrubland Alliance) and include minimal selective thinning and removal of fire hazardous material such as dead brush, dying or dead branches and trash to the maximum extent possible. Selective thinning and removal of fire hazardous material shall be accomplished by hand cutting. The permittee shall undertake development in accordance with the final plans. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
9. **Biological Monitor.** An appropriately trained biologist shall monitor the fuel modification for disturbance to sensitive species or habitat area. At minimum, monitoring shall occur once a week during any week in which fuel modification occurs. Based on field observations, the biologist shall advise the applicant regarding methods to minimize or avoid significant impacts, which could occur upon sensitive species or habitat areas. The applicant shall not undertake any activity, which would disturb sensitive species or habitat area unless specifically authorized and mitigated under this coastal development permit or unless an

amendment to this coastal development permit for such disturbance has been obtained from the Coastal Commission.

10. **Orange County Fire Authority Approval.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall also provide to the Executive Director a copy of a permit issued by the Orange County Fire Authority (OCFA) 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 OCFA. 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 determines that no amendment is legally required.
11. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant(s) shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) 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: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS:

A. PROJECT DESCRIPTION & LOCATION

The applicant proposes to demolish a 2,658-square-foot two-level single-family residence with a varying height of 10.3 feet to 18.9 feet above natural grade, and construct an approximately 5,640-square-foot, 24.8-foot high, two-story single-family residence over a partially subterranean basement (three-level residence) with a 585-square-foot garage, a 269-square-foot upper-level deck, a 1,078-square-foot entry-level patio with an outdoor spa, a 490-square-foot basement-level covered patio, garden/site wall, and hardscape and landscape improvements (see **Exhibit 2**). The new attached garage, located to the front of the lot, will be accessed from the Calle Conchita cul-de-sac. The basement level will be supported by a mat slab foundation and subterranean walls, which will be waterproofed. To accommodate the proposed daylight basement level, a caisson-supported shoring system is proposed. The proposed project conforms to the City zoning standards of a 25-foot height limit above original grade as calculated by the City; the height of the proposed residence extends up to 24.8 feet high.

The subject site is located at 207 Calle Conchita within the City of San Clemente, Orange County (**Exhibits 1 & 2**). The subject site is located on an inland, semi-pentagonal lot between the first public roadway and the sea on a coastal canyon lot (**Exhibits 2**). The lot area is 19,239 square feet and is designated Low Density Residential by the City of San Clemente Land Use Plan

(LUP); the proposed project adheres to this designation. The project is located within an existing developed urban residential area and is compatible with the character and scale of the surrounding area. The site is surrounded by multi-story single-family residential development.

B. BIOLOGICAL RESOURCES

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges- and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30240 of the Coastal Act states:

- (a) *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The proposed development is located on the rim of the Trafalgar Canyon, one of seven coastal canyons designated as environmentally sensitive habitat area (ESHA) in the certified Land Use Plan. The applicant's rear property line extends into the canyon. In this case, the canyon slope is predominantly occupied by native vegetation, particularly by lemonade berry scrub. Lemonade berry scrub is a coastal scrub under the *Rhus integrifolia* Shrubland Alliance, which holds a conservation status/rarity ranking of G3S3.¹ "Lemonade berry scrub" is a common name for the *Rhus integrifolia* Shrubland Alliance, which includes native plant species such as, but not limited to, lemonade berry (*Rhus integrifolia*) and toyon (*Heteromeles arbutifolia*). The G-rank (global) and S-rank (state) represent the overall status of an element and reflects a combination of rarity, threat, and trend factors. The global G3 ranking and the state S3 ranking both indicate that lemonade berry scrub is vulnerable and at moderate risk of extinction due to a restricted range and relatively few populations. According to the Commission's Senior Ecologist, Dr. Engel, the lemonade berry scrub occupying the canyon in this case does rise to the level of ESHA that should be protected consistent with Section 30240 of the Coastal Act.

¹ Sawyer, J.O., T. Keeler-Wolf, & J.M. Evens. 2009. A Manual of California Vegetation, Second Edition. California Native Plant Society Press, Sacramento, CA. 1300 pgs.

Preservation and enhancement of the City's ESHA is a goal supported by both the environmental protection policies of the Coastal Act, and the certified LUP. Encroachment into the canyon by structures and other appurtenances increases the potential for the introduction of non-native plant species, and predation of native species by domestic animals, and destabilization of the canyon from excess irrigation. Encroaching structures also threaten the visual quality of the canyons. The policies of the LUP were designed for habitat protection and enhancement; to minimize visual impacts and landform alteration; to avoid cumulative adverse impacts of the encroachment of structures into the canyon; and as a means to limit brush management necessary for fire protection.

In this case, the proposed new single family residence will be constructed on areas of the lot already developed and will not encroach into the canyon or impact the coastal canyon slope. The proposed residence will be setback further landward than the existing residence, and will conform to the setback requirements outlined in the City's certified Land Use Plan. The proposed residence and the caisson-supported shoring system will meet the minimum 15-foot setback from the coastal canyon edge and from the line of native vegetation, and will not encroach into the canyon. Ancillary improvements such as proposed patios and property walls meet the minimum 5-foot setback from the top of the coastal canyon.

The proposed residence is not anticipated to have any direct impacts to sensitive habitat. However, given the proposed residence's proximity to the canyon and that there is the potential for brush fires, fuel modification is required by the Orange County Fire Authority (OCFA) for the approved project. The required fuel modification has the potential to adversely impact ESHA. The fuel modification area is bordered by residentially developed lots, including the subject property and neighboring properties. Assessing whether subdivision should occur adjacent to sensitive habitat or whether the number or location of proposed lots would need to be modified as necessary to protect habitat, would all be part of the coastal development permit review process. However in this case, the lots were subdivided and developed before the Coastal Act was created in 1977. Thus, the habitat protection policies must be applied based on the pre-existing development layout.

The project site and surrounding properties are already subject to fuel modification requirements. Because fuel modification is already required at the project site along the canyon slope to protect existing development (e.g. neighboring residences), the proposal by the applicant will not increase the potential impact to ESHA resulting from fuel modification.

The proposed Fuel Modification Plan includes three types of Fuel Modification Zones: Zone A (structure setback area), Zone B (re-planted and irrigated area), and Zone C (thinning area) (**Exhibit 3**). Zone A represents the structure setback area for the proposed primary residence, accessory structures, and other hardscape improvements. No hardscape development is permitted canyon-ward of Zone A for fuel modification. Zone B represents the area to be re-planted and irrigated. Currently, Zone B is occupied by non-native and invasive vegetation. Fuel work within this zone includes the removal of this vegetation and replacement with drought-tolerant, non-invasive species. No lemonade berry scrub occurs within Zones A and B, although it is located in Zone C, which is discussed below.

Because the applicant is proposing landscaping within Zones A and B, the Commission imposes **Special Condition 6**, which requires the installation of non-invasive, drought-tolerant vegetation and water-conservative irrigation systems (permanent and temporary). Specifically, Special

Condition 6 requires that areas within the canyon slope portion of the project site disturbed during construction be re-vegetated with drought-tolerant and non-invasive plants native to coastal Orange County and appropriate to the habitat type to avoid erosion and to restore the canyon. This condition also allows for non-native, non-invasive and drought-tolerant vegetation to be planted but only within the project site inland from the canyon slope. Additionally, removal of trees is proposed; therefore, **Special Condition 7** requires time and operation constraints to avoid adverse impacts on sensitive species and bird nesting activities.

Regarding Zone C, this zone begins at the canyon-top line of native vegetation and extends down the canyon slope to the rear property line. This zone is covered almost exclusively by lemonade berry scrub with the exception of non-associative plant species located at the base of the canyon slope. Zone C is typically classified as the thinning area for purposes of fuel modification, and in this case, is occupied almost exclusively by native vegetation that rises to the level of ESHA. It should be noted, however, that according to OCFA's Vegetation Management Guideline, plant species native to Orange County with a Code O classification, such as lemonade berry and toyon, are species that are acceptable in all fuel modification wet and dry zones in all locations. These native plant species are considered fire resistant. Therefore, clearance of this vegetation alliance is not necessary based on OCFA's fuel modification guidelines and are deemed acceptable to exist within the fuel modification areas. OCFA requires that such plants be identified on fuel modification plans. However, the plans submitted by the applicant do not show the location of any sensitive plants onsite.

Therefore, Commission staff recommends **Special Condition 8**, requesting that the applicant submit a revised Fuel Modification Plan identifying the location of rare plant species occurring within the property (i.e. members of *Rhus integrifolia* Shrubland Alliance), and noting it as plants to be retained within the fuel modification zones. This requirement is consistent with the direction of OCFA's Correction letter dated February 7, 2018, which states that the plans shall note rare, protected and endangered plant species. Special Condition 8 also requires that thinning and removal of fire hazardous material to be accomplished by hand cutting. For avoidance of the sensitive plant species, **Special Condition 9** requires a qualified biologist monitor during fuel modification work. **Special Condition 10** requires that the applicant provide a copy of a permit/approval issued by the OCFA of the revised Fuel Modification Plan.

Although a distinct and separate ESHA buffer is not proposed due to the pre-existing development layout and site constraints, the Commission has considered all competing requirements and believe that as conditioned, the development will not result in significant degradation of adjacent ESHA, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms with Section 30240(b) of the Coastal Act.

C. VISUAL RESOURCES

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of

natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The proposed development is located more than 500 feet inland of the beach and along a canyon that is currently developed with single-family residences. The proposed project is not anticipated to adversely impact public views of the coast and coastal canyon slopes from public street vantage points. No significant public coastal views currently exist across the site. Views across the site are already obstructed looking inland from the beach due to the presence of vegetation and single family residences along the Calle Conchita cul-de-sac and the Vista Marina cul-de-sac. Thus, the project, as proposed is consistent with Coastal Act Section 30251.

D. PUBLIC ACCESS

Section 30210 of the Coastal Act states:

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

Section 30212 of the Coastal Act states, in part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(2) Adequate access exists nearby, or,

Section 30213 of the Coastal Act states:

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

Section 30223 of the Coastal Act states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

The project site is located at the end of the Calle Conchita cul-de-sac. Public coastal access is not available within the immediate vicinity of the project site; therefore, no construction impacts to public access are anticipated. The nearest public coastal accessway is available approximately 530 feet southeast of the subject site at the T-street public access way providing a safe pedestrian railroad crossing to the beach.

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities, consistent with the applicable Chapter 3 policies of the Coastal Act concerning public access.

E. HAZARDS

Section 30253 of the Coastal Act states in relevant part:

New development shall:

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

(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The applicant submitted a geotechnical/soils report prepared by EGA Consultants, LLC dated April 21, 2017. The report presented findings and conclusions relevant to construction of the proposed two-story residence over a basement level. The report concludes that the natural on-site slope is considered to possess adequate gross stability. The results of the slope stability analysis indicate a static and psuedostatic Factor-of-Safety that meets and exceeds the minimum standard of a FoS of 1.5. The proposed project will be located landward of the factor of safety line and meets the minimum 15-foot setback requirement from the canyon top edge. Moreover, as proposed, associated patio/flatwork is setback 5 feet.

The report contained recommendations regarding site preparation, excavations, fill materials/placement, surface drainage, landscaping, foundation design parameters and foundation setbacks from the canyon slope. Therefore, **Special Condition 1** requires that the applicant submit final design and construction plans in substantial conformance with the preliminary plans submitted on April 19, 2018 with evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and found them consistent with all the recommendations contained in the geologic engineering investigation.

In order to minimize erosion and ensure stability of the project site, the project must also include adequate drainage and erosion control measures to address site drainage issues that could otherwise contribute to erosion and geologic instability. The applicant proposes to divert site drainage and runoff from roof drains, gutters, and downspouts diverted into retention areas, which will then be filtered and directed to the street drainage system. In addition, the applicant has indicated that best management practices including the use of gravel bag berms, silt fences, drain inlet protection, and other measures will be implemented during construction to control erosion. To ensure the proposed project incorporates and implements these measures to address erosion, water quality, and pollution, **Special Condition 2** requires that the applicant comply with construction-related best management practices (BMPs) to prevent construction materials, debris and waste from entering receiving waters, prevent spillage and/or runoff of demolition or construction related materials, and to contain sediment or contaminants associated with demolition or construction activities.

Special Condition 3 requires a spa protection plan prepared by an appropriately licensed professional that incorporates mitigation of the potential for geologic instability caused by potential leakage from the proposed pool/spa.

The proposed project is located atop a coastal canyon, which is an area that may be subject to potential damage or destruction from natural hazards, including slope instability, erosion, landslides, and earth movement given the general nature of coastal canyons in certain parts of the California coast and seismic activity of nearby faults. If the applicant nevertheless chooses to proceed with the project, the Commission requires the applicant to assume the liability from these associated risks and therefore imposes **Special Condition 4**. Through the assumption of risk condition, the applicant acknowledges the nature of the geologic hazards that exists on the site and that may affect the safety of the proposed development.

Because of the potential for future improvements to the proposed residence, which could potentially adversely impact the geologic stability, or other coastal resources, the Commission imposes **Special Condition 5**. This condition informs the applicant that future development at the site requires an amendment to this permit (5-17-0607) or a new coastal development permit. Future development includes, but is not limited to, structural additions, installation of any hardscape and/or decks, landscaping and fencing.

The Commission also imposes **Special Condition 10** requiring the applicant to record a Deed Restriction acknowledging that, pursuant to this permit (CDP No. 5-17-0607), the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property.

F. LOCAL COASTAL PROGRAM (LCP)

Coastal Act section 30604(a) states that, prior to certification of a local coastal program (“LCP”), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and in 1996 certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998 and the IP review process was never completed. The City re-submitted on June 3, 1999, but withdrew the submittal on October 5, 2000. In March 2016, the City submitted an amendment application requesting a compressive update of the LUP. On February 8, 2018, the Commission approved a comprehensive LUP update with suggested modifications and additional revisions. On April 13, 2018, the Commission adopted the revised findings to the comprehensive LUP update and determined that the findings were in support of the Commission’s February 8, 2018 action. However, certification of the comprehensive LUP update is still pending. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

The project is located in an urbanized area. Development already exists on the subject site. The development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. **Special Conditions** imposed are intended to mitigate adverse impacts to coastal resources. The **Special Conditions** address the following issues: **1)** submittal of evidence that all construction plans have been reviewed by appropriately licensed professional is required to ensure consistency with all geotechnical recommendations; **2)** storage of construction materials, mechanized equipment and removal of construction debris to protect coastal water quality from pollutant discharges; **3)** pool/spa protection plan to prevent geologic instability caused by potential leakage; **4)** an assumption of risk agreement to acknowledge inherent hazards adjacent to the project; **5)** future development condition to ensure the applicant is aware of future obligations to apply for a permit if any further development is proposed; **6)** landscape plans to include the installation of drought-tolerant plant species and water conservative irrigation systems; **7)** timing constraints; **8)** Orange County Fire Authority (OCFA) approval; **9)** biological monitor; **10)** fuel modification plan; and **11)** deed restriction. As conditioned, the proposed development is consistent with the biological and visual resource protection, hazards, and public access policies of the Coastal Act and there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect, which the activity may have on the environment. Therefore, the Commission finds that the proposed development, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act and CEQA.

Appendix A - Substantive File Documents

- City of San Clemente certified Land Use Plan
- *Geotechnical Investigation for Proposed Residential Development Located at 207 Calle Conchita, San Clemente, California* (Project No. RW989.1) prepared by EGA Consultants, LLC dated April 21, 2017.
- *Supplemental Report: Slope Stability Analyses* prepared by EGA Consultants, LLC dated November 9, 2017.
- *OCFA Service Request #222506* (Correction Letter) prepared by Orange County Fire Authority, dated February 7, 2018.
- Coastal Development Permit Application No. 5-17-0607
- Approval-in-Concept from the City of San Clemente dated 07/10/2017.