

CALIFORNIA COASTAL COMMISSION

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**Th11b**

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STAFF REPORT: REGULAR CALENDAR

Application No.: 5-19-0228

Applicant: Greystar GP II, LLC & LHC Investments, LLC

Agent: Mark McGuire

Location: 501 Avenida Vaquero, City of San Clemente, Orange County

Project Description: Demolition of an existing 11,500 sq. ft. golf clubhouse and construction of an approximately 182,166 sq. ft., 45-ft. high (51 ft. high at elevator towers), four-story 150-unit senior apartment building, an 11,588 sq. ft. one-story golf clubhouse with a basement, a new access road, and hardscape and landscaping improvements on three adjacent lots, totaling approximately eight acres. A lot line adjustment is also proposed.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

Commission staff is recommending **APPROVAL** of the proposed lot line adjustment, construction of a senior apartment building in place of an existing golf driving range, and demolition and reconstruction of a new golf clubhouse. The primary Coastal Act issues raised by the proposed development concern potential impacts to biological resources, cultural resources, and water quality.

An existing narrow degraded wetland is located along the western edge of the property where the senior apartment building would to be constructed. As a part of the subject application, the applicant has proposed to undertake a full restoration of the wetland. In addition, the applicant proposes to restore the habitat in a 50 to 57 ft.-wide buffer area

between the wetland and the development associated with the proposed apartment building and has obtained permission from the adjacent property owner on the other side of the wetland to restore a 30 to 50 ft.-wide buffer area. The applicant also proposes various habitat restoration measures on a northern portion of the subject site and the adjacent site located outside the Coastal Zone. Commission staff, including the Commission's senior ecologist, has worked closely with the applicant's biological consultant to ensure that the proposed restoration plan is appropriate and also to ensure that a plan for long-term habitat monitoring will provide sufficient assurances that the habitat restoration will continue to provide ecological benefits for at least as long as the proposed apartment building exists. In order to ensure the proposed wetland and buffer restoration is implemented consistent with the Coastal Act and LUP biological resource protection policies, various special conditions are recommended for this permit.

The project site is located in an area that could potentially contain cultural resources. Past archeological investigations in the area documented a very large prehistoric campsite and possibly a village located approximately 1 mile to the south of the subject site. To better understand the cultural significance of the project site and the surrounding project area, Commission staff undertook tribal consultation, consistent with the Coastal Commission's Tribal Consultation Policy. The Juaneño Band of Mission Indians, Acjachemen Nation, responded to staff to consult on the project and indicated that the project site is located within a known culturally sensitive area. In past permit actions, the Commission has required the applicants to monitor all grading and construction activities and required appropriate recovery and mitigation measures regarding excavation, reporting, and curation. To ensure that the project protects any cultural resources that may be present on-site and is consistent with past Commission action, staff recommends that the Commission impose a Special Condition to assure that the proposed project remains sensitive to the concerns of the affected Native American groups and to require that a Native American monitor be present at the site during all excavation activities to monitor the work. The Special Condition also provides guidelines that must be followed if cultural resources are discovered during construction.

The proposed development will result in a reduction of pervious area (driving range) and an increase in impervious area. To address potential impacts to water quality the applicant has prepared a detailed Water Quality and Hydrology plans. As proposed, various landscape areas around the perimeter of the apartment building will be constructed to allow for some onsite infiltration, although the majority of drainage from the proposed project will be conveyed offsite. No onsite runoff from the developed area is proposed to drain into the buffer restoration area or the wetland. Prior to conveying onsite runoff offsite to the existing golf course drainage channel, drainage is proposed to be routed through underground water treatment systems. The Commission's water quality technical staff has reviewed the applicant's water quality reports and concur that the proposed water quality measures are appropriate for the subject site. Various special conditions are recommended with this permit to ensure that sedimentation impacts on coastal waters during construction are minimized, and that pollutants are reduced to the maximum extent feasible during construction and post-project

completion. Furthermore, a revised landscaping special condition is included to require non-invasive, drought tolerant vegetation and water conserving irrigation systems through the project site to further minimize water quality impacts resulting from the project.

Additional special conditions are recommended related to bird strikes mitigation measures; minimization of light spillover into onsite habitat areas; approval by other applicable resource agencies and the Orange County Fire Authority (OCFA); construction phasing; and recordation of a deed restriction. Thus, as conditioned, the proposed project is consistent with the coastal resource protection policies of the Coastal Act and with the City's certified LUP.

STAFF NOTE

Under the Permit Streamlining Act, the deadline for Commission action on this coastal development permit application was May 2, 2020, 180 days after filing of the CDP application. However, on April 16, 2020, the Governor of the State of California issued Executive Order N-52-20 tolling the time-frames for actions pursuant to the Permit Streamlining Act for 60 days. Accordingly, the Commission must act on this CDP application on or before July 3, 2020.

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MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit 5-19-0228 pursuant to the staff recommendation.

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

Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project 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.

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

all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS

- 1. Submittal of Revised Plans.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director's review and approval, two (2) full-size sets of revised project plans that have been revised to include the following:
 - A. Barriers on the emergency access road between the apartment building and the wetland to ensure that portion of the road is only used by emergency personnel and not for daily through traffic as depicted in [Exhibit 2](#).
 - B. Expansion of the wetland buffer adjacent to the northern parking area and reconfiguration of the parking area, as depicted in [Exhibit 2](#).
 - C. The permittee shall submit, for the review and approval of the Executive Director, revised plans to protect the wetlands from light generated by the project. The lighting plan to be submitted to the Executive Director shall be accompanied by an analysis of the lighting plan prepared by a qualified biologist, which documents that the lighting plan is effective at preventing lighting impacts upon adjacent habitat. All lighting within any future development shall be directed and shielded so that light is directed away from wetlands. Furthermore, no skyward-casting lighting shall be used. The lowest intensity lighting shall be used that is appropriate to the intended use of the lighting.
 - D. The apartment building shall be designed to provide bird-safe building façade treatments to reduce the potential for bird-strikes. Landscaping around the building, including patios and courtyards, shall be designed and sited to avoid or minimize bird-strike hazards caused by reflective surfaces such as glass fencing/railing. The building shall be designed to use minimal exterior lighting and minimize light pollution from interior lighting to the maximum extent feasible to minimize nighttime bird-strike hazards.

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

- 2. Submittal of Revised Planting Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director's review and approval, two (2) full-sized sets of a revised planting plan prepared by an appropriately licensed profession that demonstrates the following:
 - A. Vegetated landscaped areas shall only consist of native plants or non-native

drought-tolerant plants that are non-invasive. 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 the California Department of Water Resources (See: <http://www.owue.water.ca.gov/docs/wucols00.pdf>).

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

The permittee 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.

- 3. Submittal of Final Revised Wetland Enhancement and Buffer Establishment Plan.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director's review and approval, a final revised wetland enhancement and wetland buffer establishment, monitoring, and long-term maintenance plan in substantial conformance with the Wetland Protection and Enhancement Plan prepared by Glenn Lukos Associates, dated April 15, 2020, except that the program shall be revised to, at a minimum, include the following:
- A. Provide for the establishment of a variable width buffer (50 to 57-foot-wide) from the edge of the wetland and drainage bank to adjacent developed portions of the project site (Exhibit 1 of Wetland Protection and Enhancement Plan dated April 15, 2020) and restoration/enhancement of an upland area on the other side of the wetland (30 to 50 feet wide), a portion of which is on property owned by the applicants but most of which is within an open space area owned by the Chateau San Clemente Homeowners Association (Exhibit 2 of Wetland Protection and Enhancement Plan dated April 15, 2020);
 - B. Provisions that assure that no runoff from the developed senior apartment building site discharges into the wetland or buffer area;
 - C. Plans for site preparation and invasive plant removal;
 - D. Restoration plan including planting design, plant palette, source of plant material, plant installation, erosion control for the wetland enhancement and buffer establishment areas;
 - E. Revisions to the plant palette to include willow species native to the local watershed;
 - F. Revisions to the planting design to reduce the number of large shrubs (e.g., toyon, laurel sumac, and lemonade berry).
 - G. The plan must include the target native species composition and target absolute native percent cover final success criteria for the wetland enhancement and buffer establishment areas. The plan must include the rationale for the choice of the final success criteria.
 - H. A description of the monitoring methods that will be employed to determine if the wetland enhancement and buffer establishment project is meeting the success criteria. These methods must include both qualitative (e.g., observations, photographs) and quantitative (e.g., quadrats, transects) techniques.

- I. Provisions for submission of annual reports of monitoring results to the Executive Director for a minimum of five years. Each report shall include copies of all previous reports as appendices. Each report shall be a cumulative report that summarizes all previous reports. Each report shall also include a "Performance Evaluation" section where information and results from the monitoring program are used to evaluate the status of the wetland enhancement and buffer establishment project in relation to the performance standards.
- J. Provisions for submission of a final wetland enhancement and buffer establishment monitoring report that documents whether the site conforms to the goals, objectives, and success criteria outlined in the approved final wetland enhancement and buffer establishment monitoring program. The report must address all of the monitoring data collected over the monitoring period.
- K. The permittee shall implement a long-term, management, maintenance and monitoring plan for the wetland and wetland buffer area, at its own expense, for so long as the apartment building approved pursuant to this CDP exists, which shall include at a minimum, submittal to the Executive Director of an annual letter report to confirm that the wetlands and buffer continue to meet the performance criteria and of weeding efforts to ensure that weeding efforts within the buffer continue after the successful establishment of the buffer plantings. The goal of the long-term plan shall be to preserve the enhanced wetland and wetland buffer area in its enhanced condition. The plan shall include a description of the management, maintenance, and monitoring actions. The landowner(s) shall provide funding adequate to achieve the goal of the plan.
- L. If the final report (as required by Special Condition 3, subsection J of this CDP) indicates that the wetland enhancement and buffer establishment has been unsuccessful, in part, or whole, based on the approved performance standards, the applicant shall submit within 90 days a revised or supplemental wetland enhancement and buffer establishment program to compensate for those portions of the original program which did not meet the approved performance standards. The revised program, if necessary, shall be processed as an amendment to this coastal development permit.

- M. If the final report (as required by Special Condition 3, subsection J of this CDP) indicates that the enhancement has been unsuccessful, in part or whole, based on the approved performance standards, or if the annual letter report required in subsection K of this condition identifies that the wetland buffer does not continue to meet the performance criteria on the property owned by Chateau Clemente Homeowners Association, and the applicant is not able to obtain permission to undertake a revised or supplemental buffer establishment program to compensate for those portions of the original program that did not meet the approved performance standards, the applicant shall submit an application for an amendment to this coastal development permit to restore an area with comparable resource value, four times larger than the portion of the buffer area located on the property owned by Chateau Clemente Homeowners Association that fails to meet performance standards, elsewhere in the Coastal Zone, follow the application through to completion, and carry out the approved project.
- N. The permittee shall enhance, monitor, and manage the wetland and buffer area per the approved program, including any revised program approved by the Commission or its staff. Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the approved program shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

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

- 4. Other Resource Agencies Approvals.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director's review and approval, evidence of permits, approvals and/or authorizations from the California Department of Fish and Wildlife, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and other resource management agencies, as applicable for the project approved by this permit.

5. Construction/Development Phasing

Wetland and wetland buffer enhancement shall commence prior to or concurrent with any grading approved by this permit, in accordance with the enhancement, monitoring, and long-term maintenance plan required pursuant to Special Condition 3 of this permit.

6. Open Space/Habitat Use Restrictions

- A. After completing the removal of golf driving range poles and netting and relocation of the storm drain inlet in accordance with approved plans, no development, as defined in Section 30106 of the Coastal Act, shall occur within the wetland areas or the 50 to 57-foot buffer within the subject property, as shown in [Exhibit 3](#) (Exhibit 1 of Wetland Protection and Enhancement Plan dated April 15, 2020) of the staff report for CDP 5-19-0228, except for the following development: habitat enhancement, and monitoring and management in accordance with the final Wetlands Protection and Enhancement Plan approved by the Executive Director in accordance with Special Condition 3.

The following non-routine additional development may be allowed in the areas covered by this condition (#5A) if approved by the Coastal Commission as an amendment to this coastal development permit or a new coastal development permit: habitat enhancement; erosion control and repair.

The lands identified in this restriction shall be maintained by the landowner(s) for so long as the apartment building approved pursuant to this CDP exists in accordance with the Final Revised Wetland Protection and Enhancement Plan approved by the Executive Director in accordance with Special Condition No. 3.

- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the landowner(s) shall execute and record document(s) in a form and content acceptable to the Executive Director, restricting use and enjoyment of the area of land identified in subsection A of this condition. Those recorded document(s) shall reflect the restrictions identified in subsection A of this condition.

The recorded document(s) shall include legal descriptions and graphic depictions, prepared by a licensed surveyor, of both the entire project site and the restricted area. The restriction shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. The deed restriction shall run with the land, binding all successors and assigns. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

- 7. Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has 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.

8. Timing and Operational Constraints of Project Activities

- A. To avoid adverse impacts on sensitive bird species, tree removal activities shall not occur during the bird nesting season between March 1 and August 31 of any year. A qualified biologist or environmental resources specialist shall survey the project site, to determine presence and behavior of sensitive species, prior to commencement of any development, the applicant shall submit the contact information of all monitors with a description of their duties and their on-site schedule. Project activities, including vegetation removal, shall not occur until any sensitive species (e.g., species listed on state or federal endangered/threatened species lists) have left the project area or its vicinity. In the event that any sensitive wildlife species exhibit reproductive or nesting behavior, the environmental specialist shall require the applicant to cease work, and shall immediately notify the Executive Director and local resource agencies. Project activities shall resume only upon written approval of the Executive Director. The monitor(s) shall require the applicant to cease work should any breach in permit compliance occur or if any unforeseen sensitive habitat issues arise. The monitor(s) shall immediately notify the Executive Director if activities outside of the scope of this coastal development permit occur. If significant impacts or damage occur to sensitive wildlife species, the applicant shall be required to submit a revised or supplemental program to adequately mitigate such impacts. The revised or supplemental program shall be processed as an amendment to this coastal development permit.
- B. The permittee may undertake tree removal activities between March 1 and August 31 of any year upon obtaining a written statement of the Executive Director authorizing maintenance on specified dates. To obtain such a determination, the permittee must submit a declaration from the Department of Fish and Game stating that maintenance on the specific dates proposed will not cause adverse impacts to any sensitive or endangered species. The declaration must contain an assessment of the foraging, breeding, nesting activities of sensitive bird species found in the area, and a statement that the maintenance activity on the specific dates proposed will not interfere with the foraging, breeding, nesting activities of the sensitive bird species.

- 9. Orange County Fire Authority Approval.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall 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 Orange County Fire Authority (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.

10. Construction Best Management Practices.

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 sensitive habitat areas, streams, wetlands, or their buffers.
- C. 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 of in the proper trash and recycling receptacles at the end of every construction day.
- F. The applicant(s) 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 stockpiles 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 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 onset of such activity.
- M. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

11. Water Quality Management Plan.

- A. The applicant shall implement structural or non-structural Best Management Practices (BMPs) designed to minimize pollutant loads contained in runoff prior to entering the stormwater conveyance system and to maintain post-development peak runoff rate and average volume from the site at levels similar to pre-development conditions, to the extent feasible. The BMPs may include, but are not limited to:
 - 1. Design elements that serve to minimize directly connected impervious area and maintain permeable space within the development shall be incorporated where feasible. Options include the use of alternative design features such as concrete grid driveways or pavers for walkways, or porous material for or near walkways and driveways;
 - 2. Sweep parking lot(s) with a vacuum regenerative sweeper on a regular (no less than monthly) basis;
 - 3. Installation of catch basin inserts or vegetative or other media filtration devices effective at trapping or mitigating contaminants such as petroleum hydrocarbons, heavy metals, and particulates, in addition to trash and large debris. Selected BMPs shall be of a design capacity capable of mitigating (infiltrating or treating) stormwater runoff from each runoff event up to and including the 85th percentile 24-hour runoff event;
 - 4. Routine maintenance, including inspection and regular cleaning of approved BMPs, to ensure their effectiveness prior to, and during, each rainy season from October 15th through April 31st of each year. Debris and other water pollutants contained in BMP device(s) will be contained and disposed of properly. All BMP traps/separators and filters must be cleaned before the start of the winter storm season, no later than October 15th each year. The

BMPs shall be maintained to uphold their functionality.

The permittee 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.

12. Water Quality and Hydrology Plan.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, final Water Quality and Hydrology Plans, prepared by a qualified licensed professional, that conform with the plans submitted to the Commission titled Conceptual Water Quality Management Plan (WQMP) Shorecliffs Senior Housing dated October 2, 2019, and Preliminary Hydrology Report Shorecliffs Senior Housing dated October 2, 2019. The final Water Quality and Hydrology Plans shall demonstrate that the project complies with the following requirements:

- A. Prepare Plans by a Licensed Professional. A California-licensed professional (e.g., Registered Professional Civil Engineer, Geotechnical Engineer, Geologist, Engineering Geologist, Hydrogeologist, or Landscape Architect) qualified to complete this work shall be in responsible charge of preparing the Water Quality and Hydrology Plan.
- B. Conduct Site Characterization. A polluted runoff and hydrologic characterization of the existing site (*e.g., potential pollutants in runoff, soil properties, infiltration rates, depth to groundwater, and the location and extent of hardpan and confining layers*) shall be conducted, as necessary to design the proposed BMPs.
- C. Address Runoff from Impervious and Semi-Pervious Surfaces. Runoff from all new or replaced impervious and semi-pervious surfaces shall be addressed in the plan. For sites where the area of new or replaced impervious and semi-pervious surfaces is greater than or equal to 50% of the pre-existing impervious and semi-pervious surfaces, runoff from the entire developed area, including the pre-existing surfaces, shall be addressed in the plan.
- D. Size BMPs Using Design Storm Standard. Any Low Impact Development (LID), Runoff Control, and Treatment Control BMP (or suite of BMPs) implemented to comply with the plan requirements shall be sized, designed, and managed to infiltrate, retain, or treat, at a minimum, the runoff produced by the 85th percentile 24-hour storm event for volume-based BMPs, or two times the 85th percentile 1-hour storm event for flow-based BMPs.
- E. Use an LID Approach to Retain Design Storm Runoff. A LID approach to stormwater management shall be implemented that will retain on-site (by means of infiltration, evapotranspiration, or harvesting), at a minimum, the runoff

produced by the 85th percentile 24-hour design storm (see D., above), to the extent appropriate and feasible. In implementing a LID approach, priority shall be given to the use of preventive LID Site Design strategies (such as reducing impervious surface area) to minimize post-development changes in the site's stormwater flow regime, supplemented by the use of structural LID BMPs (such as a rain garden) if needed to mitigate any unavoidable changes in stormwater flows.

- F. Implement a Treatment Control BMP if Necessary. A Treatment Control BMP (e.g., vegetated swale, detention basin, and storm drain inlet filter) shall be implemented if necessary to remove pollutants of concern from runoff. The project shall comply with the following applicability and performance standards for Treatment Control BMPs:
1. A Treatment Control BMP (or suite of BMPs) shall be implemented to remove pollutants of concern from any portion of the runoff produced by the 85th percentile 24-hour design storm (see C., above) that will not be retained on-site.
 2. Where infiltration BMPs are not adequate to remove a specific pollutant of concern attributed to the development, an effective Treatment Control BMP (or suite of BMPs) shall be implemented prior to infiltration of runoff, or else an alternative BMP that does not involve infiltration shall be substituted for the infiltration BMP.
 3. Where a Treatment Control BMP is required, a BMP (or suite of BMPs) shall be selected that has been shown to be effective in reducing the pollutants of concern generated by the proposed land use.
- G. Design and Manage Parking Lot to Minimize Polluted Runoff. The parking lot shall be designed to minimize impervious surfaces to the extent feasible, and to treat and/or infiltrate runoff before it reaches coastal waters or the storm drain system so that heavy metals, oil and grease, and polycyclic aromatic hydrocarbon pollutants on parking lot surfaces will not enter coastal waters. The project shall comply with the following applicability and performance standards for parking lot design and management:
1. The design of landscaped areas for parking lots shall include provisions, where appropriate and feasible, for the on-site infiltration, retention, and/or detention of stormwater runoff. Where landscaped areas are designed for infiltration, retention, or detention of stormwater runoff from the parking lot, recessed landscaped catchments (i.e., below the elevation of the pavement) shall be installed. Curb cuts shall be placed in curbs bordering landscaped areas, or else curbs shall not be installed, to allow stormwater runoff to flow from the parking lot into landscaped areas. All surface parking areas shall be provided a permeable buffer between the parking area and adjoining streets and properties.

2. Filter treatment systems, particularly for hydrocarbon removal BMPs, shall be adequately maintained to protect coastal water quality.
- H. Manage BMPs for the Life of the Development. Appropriate protocols shall be implemented to manage BMPs (including ongoing operation, maintenance, inspection, and training), to protect coastal water quality for the life of the development.
- I. Content of the Water Quality and Hydrology Plan. The Water Quality and Hydrology Plan shall include, at a minimum, the following required components:
1. All of the information required for the Post-Development Runoff Plan (see Special Condition 11, above), including Site Design strategies and Source Control BMPs.
 2. Documentation of polluted runoff and hydrologic characterization of the existing site (e.g., potential pollutants in runoff, soil properties, infiltration rates, depth to groundwater, and the location and extent of hardpan and confining layers) as necessary to design the proposed BMPs. Include a map showing the site's Drainage Management Areas, and calculations of the runoff volumes from these areas.
 3. A description of the BMPs that will be implemented, including documentation of the expected effectiveness of the BMPs. Include a schedule for installation or implementation of all post-development BMPs
 4. A characterization of post-development pollutant loads, and calculations, per applicable standards, of changes in the stormwater runoff flow regime (i.e., volume, flow rate, timing, and duration of flows) resulting from the proposed development when implementing the proposed BMPs.
 5. Supporting calculations demonstrating that required BMPs have been sized and designed to infiltrate, retain, or treat, at a minimum, the runoff produced by the 85th percentile 24-hour storm event for volume-based BMPs, or two times the 85th percentile 1-hour storm event for flow-based BMPs.
 6. A description and calculations demonstrating that the 85th percentile design storm runoff volume will be retained on-site, giving precedence to a LID approach. If the 85th percentile runoff volume cannot be retained on-site using LID, an alternatives analysis shall demonstrate that no feasible alternative project design will substantially improve runoff retention.
 7. A description and schedule for the ongoing management of all post-development BMPs (including operation, maintenance, inspection, and training) that will be performed for the life of the development if required for the BMPs to function properly.

The permittee shall undertake development in accordance with the Post-Development Runoff Plan and the Water Quality and Hydrology Plans unless the Commission amends this permit or the Executive Director issues a written determination that no amendment is legally required for any proposed minor deviations.

13. Cultural Resource Treatment and Monitoring Plan

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director an archaeological/cultural resources monitoring plan prepared by a qualified professional, which shall incorporate the following measures and procedures:
1. The monitoring plan shall ensure that any prehistoric archaeological or paleontological or Native American cultural resources that are present on the site and could be impacted by the approved development will be identified so that a plan for their protection can be developed. The methods of protection of Tribal Cultural Resources shall be developed in consultation with the appropriate Native American tribal government, and in-situ preservation is the preferred option that can be accomplished through capping of the site or dedication of open space over the resource area. To this end, the cultural resources monitoring plan shall require that archaeological and Native American monitors be present during all grading operations and subsurface construction activity that has the potential to impact cultural resources. If the site is a shared prehistoric territory, one Native American monitor from each affected tribe shall be present during all ground disturbance.
 2. There shall be at least one pre-grading conference with the project manager and grading contractor at the project site to discuss the potential for the discovery of archaeological/cultural or paleontological resources. Prior to grading operations, a copy of all archeological documents and reports shall be provided to the Native American monitors.
 3. 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(s) (MLD) when State Law mandates identification of an MLD, shall monitor all project grading and subsurface construction activity (such as trenching for utilities) that has the potential to impact cultural resources, as required in the approved cultural resources monitoring plan required above.
 4. The permittee shall provide sufficient archaeological and Native American monitors to assure that all project grading and subsurface construction

activities that have any potential to uncover or otherwise disturb cultural deposits are monitored at all times;

5. If any archaeological or paleontological, or cultural deposits, are discovered, including but not limited to skeletal remains and grave-related artifacts, artifacts of traditional cultural, religious or spiritual sites, or any other artifacts relating to the use or habitation sites, all construction shall cease within at least 50 feet of the discovery. Treatment of the discovery shall be determined by the appropriate monitor or the MLD. Significance testing may be carried out only if acceptable to the affected Native American Tribe, in accordance with the attached "Cultural Resources Significance Testing Plan Procedures" (Appendix B). The permittee shall report all discovered resources as soon as possible, by phone or by email to the Executive Director. The permittee shall provide the significance testing results and analysis to the Executive Director, if applicable.

- B. If the Executive Director determines that the discovery is significant or that the treatment method preferred by the affected Native American tribe is in conflict with the approved development plan, the permittee shall seek an amendment from the Commission to determine how to respond to the discovery and to protect both those and any further cultural deposits that are encountered. Development within at least 50 feet of the discovery shall not recommence until an amendment is approved, and then only in compliance with the provisions of such amendment.

FINDINGS AND DECLARATIONS

A. Project Description and Background

The proposed project site is located at 501 Avenida Vaquero in the City of San Clemente, Orange County. The project site is generally level and is bordered to the north by Interstate 5 (I-5), to the east and south by an existing golf course, and to the west by open space and an existing primarily single-family housing development. The nearest public access to the beach is available at Poche Beach, approximately one mile west of the subject site. The site consists of three adjacent lots, totaling approximately eight acres, and was originally developed in 1967 with a golf course, parking lot, golf clubhouse and driving range. The site is a part of the existing 139-acre Shorecliffs Golf Club, which extends both north and south of I-5. Access to the site is provided via Avenida Vaquero. The subject site is at the farthest northeast corner of San Clemente's Coastal Zone ([Exhibit 1](#)).

The project site is effectively split between an approximately six-acre driving range lot and an approximately two-acre golf course lot. The project site also includes a small portion of a second much larger golf course lot. The land use designation within the City's certified Land Use Plan (LUP) for the driving range lot is Residential High (RH). On RH properties, the LUP allows a maximum density of 36 units per net acre. The driving range lot is also identified as a senior housing site in the Forster Ranch Specific

Plan (though, the Specific Plan is not a part of the LUP). The two golf parcels are designated Open Space (OS2) in the LUP, which allows for privately owned parklands, beach parcels, recreational facilities, passive open space areas, habitat protection areas, and golf courses. The proposed uses on the respective sites are consistent with the land use designations.

The applicant is proposing to demolish the existing 11,500 sq. ft. golf clubhouse and to construct a new 11,588 sq. ft. one-story golf clubhouse with a basement. The existing clubhouse is located on the driving range lot. The new clubhouse is proposed to straddle the property line of two golf course lots. In its approval of the project, the City required that the applicant record a lot-tie covenant over the two golf course lots.

The applicant is also proposing to construct an approximately 182,166 sq. ft., 45-ft. high (51 ft. high at elevator towers), four-story, 150-unit senior apartment building (93 one-bedroom and 57 two-bedroom units, ranging from 653 to 1,407 sq. ft.) on the driving range lot ([Exhibit 2](#)). As proposed, the 150-unit apartment building would result in a density of 24.6 units per net acre. The project does not include an affordable housing component. However, in its approval of the project, the City restricted the entirety of the apartment building to residents age 55 and older. The apartments are designed for active seniors and will not include assisted living support facilities.

The project includes an extension of the existing entry road in order to access the proposed golf clubhouse and the apartment building and hardscape and landscaping improvements ([Exhibit 2](#)). In addition, the applicant is proposing a lot line adjustment that would legally separate the driving range parcel from the golf course parcels¹ ([Exhibit 4](#)). The proposed project also includes 9,118 cu. yds. cut and 10,360 cu. yds. fill, with a net 1,242 cu. yds. of soil import.

There is an existing approximately 280 ft. long, 4-25 ft. wide, 0.11-acre² wetland along the northwest boundary of the driving range site. The wetland habitat continues upstream to the northwest of the site past the Coastal Zone boundary.

The applicant's biological consultant states that the wetland is a result of:

“...non-storm nuisance runoff and storm runoff from approximately 185 acres of developed watershed, including portions of I-5 freeway and developed areas across the freeway to the northeast (flows from these areas are concentrated and discharged into the drainage course via 54- and 42-inch storm drains that both outlet north of the project site) ...” (Wetland Protection and Enhancement Plan, p. 1)

The wetland discharges to an existing underground 45-inch storm drain that runs under a portion of the existing driving range and golf course before connecting to the

¹ Existing: P1 0.429 acre, P2 7.791 acre. Proposed P1 6.067 acre, P2 2.127 acre

² 0.11 acre is the size of the portion of the wetland with within the Coastal Zone only

underground Prima Deshecha box culvert³. The proposed project includes the replacement of the 550 linear ft. existing underground storm drain with a larger 60-inch, 520 linear ft. storm drain. In addition, the existing driving range netting and large utility-like poles (six of which are located directly adjacent to the wetlands) would be removed. The applicant is also proposing a habitat enhancement plan for the existing wetland area and a Water Quality Management Plan (WQMP) with water treatment BMPs intended to serve the developed sites.

As conditioned, the applicant will establish a 50 to 57-foot buffer from the wetland area to the nearest physical development (fire access road and paved parking area). The distance between the wetland and the proposed apartment building is 85 feet. Furthermore, the applicant is proposing a habitat enhancement and monitoring plan to enhance the wetland area and establish a buffer of native vegetation. The applicant is not proposing to record a conservation easement over the onsite wetlands or proposed wetland buffer.

The proposed wetland enhancement program is contained in the document titled "Wetland Protection and Enhancement Plan, Coastal Development Permit Application No. 5-19-0228 (501 Avenida Vaquero, San Clemente, Orange County) prepared by Glenn Lukos Associates dated April 15, 2020."

The proposed habitat enhancement plan is outlined below:

1. Enhancement of 0.11 acres of jurisdictional wetlands through the removal of non-native vegetation, including invasive exotics.
2. Establishment of a 50 to 57-ft. wide, approximately 0.52-acre buffer zone within the Coastal Zone on the subject site and establishment a 30 to 50-ft. wide, approximately 0.23-acre buffer zone within the Coastal Zone on an adjacent site consisting of native trees, shrubs, grasses, and wildflowers between the wetland and physical development on the driving range lot.
3. Installation of a three to four foot high earthen berm planted with screening vegetation along the eastern border of the wetland buffer to provide additional physical separation between the wetlands and development and also screen the buffer area from light spillover from car headlights.
4. Removal of the invasive and other non-native species immediately upstream of the wetlands within the project site, but outside of the Coastal Zone.

The owner/applicant proposes to be responsible for the implementation of the habitat enhancement project and restoration maintenance and monitoring program over a 5-year period following completion of plant installation to ensure project success. Proposed success criteria for the first year is a minimum of 30% coverage by native

³ The Prima Deshecha box culvert was approved by the Commission pursuant to CDP No. 5-93-006. The portion of the box culvert within the Coastal Zone extends from I-5 approximately 2,500 ft. west to Calle Grande Vista.

species, third year minimum 50% coverage, and fifth year minimum 75% coverage. The applicant proposes to provide annual monitoring reports. An annual report of weeding efforts is proposed to be provided to the Commission after the 5-year monitoring period, or later once the re-vegetation is considered a success.

B. Biological Resources

Section 30121 of the Coastal Act states:

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

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 waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30233 (a) of the Coastal Act states,

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

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

- (4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.
- (5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
- (6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
- (7) Restoration purposes.
- (8) Nature study, aquaculture, or similar resource dependent activities.

The City's certified LUP contains the following relevant language and polices:

4.3.3 Wetlands

Wetlands policies provide specific direction for wetland areas, in addition to all other applicable resource protection policies of this LCP chapter. In event of conflict between wetlands policies and more general resource protection policies of this LCP chapter, the wetlands policies shall control.

RES-41 Wetlands. Recognize and protect wetlands for their scenic, recreational, water quality, and habitat values. The biological productivity and the quality of wetlands shall be protected and, where feasible, restored.

RES-45 Wetland Buffer. Buffer areas shall be provided around wetlands to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the wetland they are designed to protect and should be at least 100 feet in width, where feasible. A wetland buffer may be reduced only where it can be demonstrated that (1) the required buffer width is not possible due to site-specific constraints, and (2) the proposed narrower buffer would be sufficiently protective of the biological integrity of the wetland to avoid significant adverse impacts to the wetland given the site-specific characteristics of the resource, and the type and intensity of disturbance.

RES-47 Wetland Impacts. The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes may be permitted only where there is no feasible less-environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, as specifically outlined in Coastal Act Section 30233, including but not limited to:

- a. Incidental public service purposes including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines;
- b. Restoration purposes; and

c. Nature study, aquaculture, or similar resource-dependent activities.

RES-50 Other Resource Agencies Approvals. Coastal Development Permit applications for development within or adjacent to wetlands shall include evidence of the preliminary approval of the California Department of Fish and Wildlife, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and other resource management agencies, as applicable.

RES-80 Fuel Modification Plan. Applications for new development near native or sensitive habitat shall include a fuel modification plan for the project site, approved by the Fire Department. Additionally, applications shall include a site plan depicting the brush clearance, if any, that would be required on adjacent properties to provide fire safety for the proposed structures.

RES-84 Bird-Safe Buildings. All new buildings, and major renovations/remodels of existing buildings, shall be required to provide bird-safe building façade treatments in order to reduce potential for bird-strikes. Landscaping around buildings, including patios and courtyards, shall be designed and sited to avoid or minimize bird-strike hazards caused by reflective surfaces such as glass fencing/railing. Buildings shall be designed to use minimal exterior lighting and minimize light pollution from interior lighting to the maximum extent feasible to minimize nighttime bird-strike hazards.

RES-85 Minimization of Lighting Impacts. Eliminate or shield and direct exterior lighting away from biological resources to minimize adverse impacts to wildlife. There shall be no spillover of light into the identified biological resource. Buildings shall be designed to use minimal exterior lighting (limited to pedestrian safety needs) and to minimize direct upward light, spill light, glare and artificial night sky glow.

RES-90 Construction Near Nesting and Foraging Habitat. If an active nest of any species listed pursuant to the federal or California Endangered Species Act, California bird species of special concern, or a wading bird (herons or egrets) as well as owls or raptors is found, construction activities within 300 feet (500 feet from any identified raptor nest) shall not exceed noise levels of 65 dB peak until the nest(s) is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. The 65 dB peak noise levels may only be increased if a noise study demonstrates the ambient noise level is above 65 dB at the subject site. Nesting Bird Surveys for the above bird species during their breeding season shall be conducted by a qualified biologist prior to commencement of construction on sites where there is probable cause to believe that nesting birds may exist.

As described previously, the applicant proposes a lot line adjustment on two adjacent sites, to construct a 150-unit apartment building, to construct a new golf clubhouse, and to install extensive hardscaping and landscaping. The Jurisdictional Delineation and the Wetland Protection and Enhancement Plan submitted by the applicant identified the existence of wetland on the subject site. A 50 to 57 ft.-wide buffer is proposed between the edge of the wetlands and proposed development. Thus, no direct impacts to wetlands are proposed.

One of the main reasons for preserving, expanding, and enhancing Southern California's remaining wetlands is because of their important ecological function. First and foremost, wetlands provide critical habitat, nesting sites, and foraging areas for threatened or endangered species. Wetlands also serve as migratory resting spots on the Pacific Flyway, a north-south flight corridor extending from Canada to Mexico used by migratory bird species. In addition, wetlands serve as natural filtering mechanisms to help remove pollutants from storm runoff before the runoff enters into streams and rivers leading to the ocean. Further, wetlands serve as natural flood retention areas.

Another critical reason for preserving, expanding, and enhancing Southern California's remaining wetlands is because of their scarcity. As much as 75% of coastal wetlands in southern California have been lost, and, statewide, up to 91% of coastal wetlands have been lost.

The Coastal Act defines wetlands as "...lands within the coastal zone which may be covered periodically or permanently with shallow water...." The more specific definition adopted by the Commission and codified in Section 13577(b)(1) of Title 14 of the California Code of Regulations defines a wetland as, "...land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes...." In discussing boundary determinations, the same section of the Regulations specifies that wetlands have a "predominance" of hydrophytic cover or a "predominance" of hydric soils. Although the definition is based on inundation or shallow saturation long enough for anaerobic reducing conditions to develop within the root zone, in practice, hydrology is the most difficult wetland indicator to demonstrate. In California, a predominance of hydrophytes or a predominance of hydric soils is taken as evidence that the land was "wet enough long enough" to develop wetland characteristics.

The Wetland Protection and Enhancement Plan states that a 0.11-acre Coastal Commission jurisdictional wetland is present on the subject site within the Coastal Zone. Native plant species found include pickleweed, salt grass, and Menzies golden bush. Invasive non-native plant species are also present and include Spanish false fleabane, knotgrass, bristly ox-tongue, and pampas grass. The main source of water for the wetland, as identified in the Wetland Protection and Enhancement Plan, is nuisance water that drains to the wetland from offsite areas north of the project site, outside of the Coastal Zone. The Wetland Protection and Enhancement Plan also identifies that the wetlands do not currently receive hydrological input from any areas proposed for development within the project site and that the hydrology supporting the wetlands would not change as a result of the project.

Wetland Ecology and Buffers

Buffer areas are undeveloped lands surrounding wetlands. Buffer areas serve to protect wetlands from the direct effects of nearby disturbance. In addition, buffer areas can provide necessary habitat for organisms that spend only a portion of their life in the wetland, such as amphibians, reptiles, birds, and mammals. Buffer areas provide obstructions which help minimize the entry of domestic animals and humans to

wetlands. Buffers also provide visual screening between wetland species that are sensitive to human impacts, such as lighting. Buffers can also reduce noise disturbances to wetland species from human development.

The applicant is proposing a habitat enhancement and buffer program, as described earlier in this report. The enhancement program proposes to remove invasive and non-native plant species from the project site, including from areas immediately upstream of the project site but outside of the Coastal Zone within the applicant's property ([Exhibit 3](#)). As proposed, non-native pampas grass, Spanish false fleabane, and bristly ox-tongue will be removed by hand and will not require the use of synthetic herbicides. The enhancement program states that "A brief annual report, summarizing the removal efforts each year will be submitted to the Coastal Commission during each of the first three years of the nonnative removal program..."

The applicant also proposes to establish a 50 to 57-ft wide, approximately 0.52-acre buffer zone within the Coastal Zone on the subject site and establishment a 30 to 50-ft. wide, approximately 0.23-acre buffer zone within the Coastal Zone on an adjacent site ([Exhibit 3](#)). The proposed buffer area on the subject site is part of the existing driving range. The adjacent site, located directly adjacent to the west of the onsite wetlands, is owned by the Chateau Clemente Homeowners Association (Chateau Clemente HOA). The HOA-owned site is designated as Open Space in the certified LUP and consists of a steep slope dominated by invasive non-native vegetation including acacia, black mustard, wild radish, pampas grass, and eucalyptus. The HOA representative has indicated that the HOA does not want to be a co-applicant, but has provided written confirmation that the applicant has permission to undertake the proposed restoration and continued maintenance on the HOA-owner site. The plant palette for the 0.75-acre "native buffer" includes native trees, shrubs, grasses, and wildflowers native to the area. The enhancement program states that the buffer "...would be subject to long-term maintenance for purposes of maintaining buffer functions, including removal of non-native weeds and removal of trash and debris as needed..."

In addition to the non-native and invasive plant removal and the native buffer restoration, the applicant proposes to construct a berm with screening shrubs along the outer edge of the buffer to shield the habitat from car headlights and to install non-barbed, three-wire fencing and signage at the edge of the buffer area to deter access into the buffer. The applicant is also proposing to shield all project lighting to prevent light spillover into the wetlands and buffer area. However, no lighting plan or specific measures to prevent light spillover have been provided.

Buffer areas need to be of sufficient size to ensure the biological integrity and preservation of the habitat they are designed to protect. The City of San Clemente is the lead agency for purposes of CEQA compliance. The proposed 50-foot buffer is less than the 100-foot buffer normally required by the Commission for wetlands. Furthermore, Policy RES-45 of the certified LUP requires 100-foot wetland buffers, where feasible. As detailed in Policy RES-45, a wetland buffer may be reduced only where it can be demonstrated that a 100-foot wide buffer is not possible due to site-specific constraints and a narrower buffer would sufficiently protect the biological

integrity of the wetland given the site-specific characteristics of the resource and of the type and intensity of disturbance.

Because the City does not have a certified LCP, the standard of review is the Coastal Act, with the City's certified LUP used as guidance. Thus, the controlling policy standard for the required wetland buffer is Coastal Act Section 30231, which requires that the biological productivity and quality of wetlands be protected and restored where feasible. At the request of Commission staff, the applicant undertook an alternatives analysis to explore the feasibility of providing a larger wetland buffer on the site. The applicant provided information on five potential alternatives that would result in an expanded wetland buffer.

Although the subject site appears to be large enough to accommodate a significant amount of development, it does have various site constraints that limit options for the construction of a large apartment building. One site constraint is the need for an access road around the entire perimeter of the building to provide access for emergency services. Additionally, as currently proposed, a water line would be constructed below the perimeter access road. A second site constraint is an existing water line and fiber optic easement along the entire inland border of the site. A third site constraint is the existing manufactured slope separating the inland portion of the site and Interstate 5. As currently proposed, a 17-20 ft. high retaining wall would be constructed in order to locate parking and the emergency access road closer to the Interstate.

In the first alternative, the applicant calculated the number of apartment units and parking spaces that would be lost with a 75-foot buffer and no change to the proposed apartment building orientation. As presented by the applicant, this alternative would result in a loss of 28 units and 19 parking spaces for the 75-foot buffer. The applicant contends that the loss of units would make the project financially infeasible. The applicant also argues that this alternative would be inconsistent with the intent of the City's and Commission's approved land use designation of the site as Residential High. Under the 75-foot buffer scenario, the site density would be reduced to 20 units/acre (122 units/6.1 acres). A site density of 20 units/acre would be consistent with a Residential Medium (RM) land use designation (15-24 units per acre).

In the second alternative, the applicant calculated the number of apartment units and parking spaces that would be lost with a 100-foot buffer and no change to the proposed apartment building orientation. As presented by the applicant, this alternative would result in a loss of 41 units and 33 parking spaces for the 100-foot buffer. The applicant contends that the loss of units would make the project financially infeasible. The applicant also argues that this alternative would be inconsistent with the intent of the City's and Commission's approved land use designation of the site as Residential High. Under the 100-ft. buffer scenario, the site density would be reduced to 17.9 units/acre (109 units/6.1 acres). A site density of 17.9 units/acre would be consistent with a Residential Medium (RM) land use designation (15-24 units per acre).

In the third alternative, the applicant analyzed a 100-foot buffer between the wetland and the parking to the north of the proposed apartment building, but with retention of the

proposed 50 ft. buffer between the wetland and the apartment building. This alternative included a parking garage below the apartment building to replace the parking spaces that would be lost with the 100-ft. buffer. Although this alternative would result in adequate parking and the desired number of apartment units, the applicant contends that the additional cost of the below-ground parking garage would make the project economically infeasible. The applicant did not provide a specific cost for the additional project cost that would result from the parking garage construction. However, the project agent indicated it would be less than the \$2.5 million-dollar cost estimate of a larger parking garage. Additionally, the applicant asserts that seniors prefer at-grade parking.

In the fourth alternative, the applicant analyzed a 100-foot buffer between the wetland and the apartment building and the parking area, with modifications to the building orientation and a parking garage below the apartment building. This alternative included shifting the apartment building closer to the highway and also included a much larger parking garage below the apartment building to replace the parking spaces that would be lost with the 100-ft. buffer. This alternative would result in a loss of approximately nine apartment units (resulting in a facility with 141 apartment units) and a loss of approximately six parking spaces (resulting in a facility with ~176 parking spaces, ~110 spaces in the underground parking garage). Under this scenario, the site density would be reduced to 23.1 units/acre (141 units/6.1 acres). A site density of 23.1 units/acre would be consistent with a Residential Medium (RM) land use designation (15-24 units per acre). Similar to the previous alternative, the applicant contends that the additional cost of the below-ground parking garage would make the project economically infeasible and that seniors prefer at-grade parking. The project agent estimates that the additional project cost for the large below-grade parking garage would be approximately \$2.5 million (phone call between CCC Staff and project agent, March 18, 2020). In addition, this alternative would result in the need to construct an approximately 42-ft. high retaining wall adjacent to the interstate, which the applicant's engineer has indicated may not be technically feasible to construct.

The fifth alternative presented by the applicant would retain the orientation of the existing apartment building but would reconfigure the access road to the northern parking area in order to increase the buffer between the wetland and the northern parking area by approximately seven feet and would include a vehicular barrier on the emergency access road between the wetland and the apartment building. Thus, the portion of the access road between the wetland and the apartment building would only be used for emergency purposes, and driving adjacent to the wetland would be reduced significantly. The applicant has indicated that this alternative would reduce available parking by approximately six spaces, and believes the City of San Clemente would support the reduced parking and that this alternative would provide adequate parking for the proposed apartment building (phone call between CCC Staff and project agent, March 18, 2020). Subsequent to the submittal of the subject application, the applicant modified the proposed project description to be consistent with this alternative.

The applicant has made numerous arguments related to the constraints present on the site that would make a 100 ft. wetland buffer difficult to achieve. However, the applicant has not provided definitive evidence that it would be infeasible to provide a 100 ft.

wetland buffer on the project site and to maintain a viable development. Of course, the applicant is not entitled to a 150-unit apartment building on the site. At the same time, however, Section 30231 only precludes this larger development if can't be conducted in a way that maintains, and, where feasible, enhances, the biological productivity and the quality of coastal waters, including the adjacent wetland, appropriate to maintain optimum populations of marine organisms and for the protection of human health.

The Commission's staff biologist has reviewed the wetland restoration and buffer plan and the biological assessment and has determined that, in this case, the proposed 50-57-foot buffer on the subject site and the proposed 30-50-foot buffer on the adjacent site would be sufficiently protective of the biological integrity of the wetland ([Exhibit 5](#)).

In order to ensure the proposed wetland and buffer restoration is implemented consistent with the Coastal Act and LUP biological resource protection policies, Special Condition 3 requires the submittal of a final revised Wetland Enhancement and Buffer Establishment Plan. The Special condition requires that the minimum size of the proposed buffers onsite and on the adjacent site be 50 to 57-ft. and 30 to 50-ft., respectively; prohibits the applicant from directing any runoff from the developed senior apartment building site toward the wetland enhancement area and the buffer area, requires detailed plans for site preparation, invasive plant removal, planting design, plant palette, source of the plant material, plant installation, and erosion control. In addition, Special Condition 3 mandates revisions to the proposed plant palette to include willow species native to the local watershed and to reduce the number of large shrubs in the proposed buffer planting plan. The Special Condition also requires that the restoration plan include the target native species composition and target absolute native percent cover final success criteria for the wetland enhancement and buffer establishment areas and a description of the monitoring methods (quantitative and qualitative) that will be employed to determine if the wetland enhancement and buffer establishment project is meeting the success criteria.

Special Condition 3 also requires annual monitoring reports for a minimum of five years and final report to demonstrate that the restoration has met the identified success criteria and an ongoing annual letter report of weeding efforts and analysis of whether the restoration continues to meet the identified success criteria for so long as the apartment building exists. The condition specifically requires that if the performance criteria have not been met, the applicant or successor in interest shall provide an analysis to the Executive Director of why the plan did not succeed and the measures to be taken to ensure success. If the performance criteria have not been met, the applicant or successor in interest shall submit a revised or supplemental wetland enhancement and buffer establishment program, which may require an amendment to this CDP.

The proposed wetland and buffer restoration plan is relatively unique in that a portion of the buffer restoration is being undertaken on land that is not owned by the applicant, and the adjacent landowner is not a party to this CDP. The implementation and ongoing success of the buffer restoration on the HOA-owned side of the wetland is crucial to ensure the biological integrity and preservation of the drainage course and associated wetlands. It is unlikely that the reduced 50-57-ft. buffer on the subject site would be

sufficiently protective of the onsite wetland, were it not for the proposed restoration of the off-site slope adjacent to the wetland. Thus, if the final wetland and buffer monitoring report or the required ongoing annual letter report of weeding efforts and continued success of the restoration indicates that the enhancement has been unsuccessful, in part or in whole on the HOA-owned property, and the applicant is not able to obtain permission to undertake a revised or supplemental buffer establishment program to compensate for those portions of the original program which did not meet the approved performance standards, the condition will require the applicant to process an amendment to this coastal development permit to restore an area elsewhere in the Coastal Zone with comparable resource value, four times larger than the portion of the proposed buffer area located on the HOA-owned property that has failed to meet performance standards. The required 4:1 offsite mitigation ratio is necessary in order to account for the uncertainty of the resource value a future site may provide and to account for the likely adverse impacts to the onsite wetland and buffer restoration areas that would result from failure of the proposed buffer restoration on the HOA-owned property.

Any changes to the approved wetlands enhancement and buffer plan, including but not limited to changes to the monitoring program to ensure the success of the mitigation site, shall require an amendment to this permit from the Coastal Commission or written concurrence from the Executive Director that the changes do not require a permit amendment.

As stated above, Section 30233 of the Coastal Act and Policy RES-47 of the certified LUP allow the diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes for eight enumerated purposes where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects. In this case, the proposed project avoids the existing wetlands and would not directly result in the filling of wetland areas. Furthermore, the applicant proposes to undertake the restoration of the onsite wetland, which is an allowed use under Section 30233 and LUP Policy RES-47. Therefore, the Commission finds the project consistent with Section 30233 of the Coastal Act and Policy RES-47 of the certified LUP. In order to assure that no fill of wetlands occurs, Special Condition 1 requires that the applicant construct the project in strict compliance with the final approved plans. Special Condition 5 requires that the wetland enhancement and buffer program is implemented concurrently with the commencement of grading.

In order to provide preservation of wetland and buffer areas on the subject site for so long as the apartment building approved pursuant to this CDP exists, after completing the removal of golf driving range poles and netting and relocation of the storm drain inlet in accordance with approved plans, Special Condition 6 prohibits new development as defined in Section 30106 of the Coastal Act from occurring within the wetland areas and 50 to 57-foot buffer within the subject property, as shown in [Exhibit 3](#) (Exhibit 1 of Wetland Protection and Enhancement Plan dated April 15, 2020) except for the following development: habitat enhancement, monitoring, and management in accordance with the final Wetlands Protection and Enhancement Plan. Additionally, the

following non-routine additional development may be allowed in the areas covered by this condition if approved by the Coastal Commission as an amendment to this coastal development permit or a new coastal development permit: habitat enhancement, erosion control, and repair. Special Condition 7 requires that, prior to issuance of the CDP, the applicant must execute and record a deed restriction to memorialize and independently impose the requirements of the condition.

To ensure continued protection of the wetlands, consistent with LUP Policy RES-85, the Commission imposes Special Condition 1 requiring the permittee to submit revised plans to include a lighting plan accompanied by an analysis of the lighting plan prepared by a qualified biologist which documents that the lighting plan is effective at preventing lighting impacts upon adjacent wetlands from light generated by the project. Because the proposal includes development directly adjacent to wetlands, consistent with LUP policy RES-50, Special Condition 4 requires that the applicant provide evidence of permits, approvals and/or authorizations of the California Department of Fish and Wildlife, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and other resource management agencies, as applicable, prior to issuance of the Coastal Development Permit.

Glass walls are known to have adverse impacts upon a variety of bird species. Birds are known to strike glass walls causing their death or stunning them, which exposes them to predation. Some authors report that such birds strikes cause between 100 million to 1 billion bird deaths per year in North America alone. Birds strike the glass because they either don't see the glass, or there is some type of reflection in the glass which attracts them (such as the reflection of bushes or trees that the bird might use for habitat). Thus, consistent with LUP Policy RES-84, Special Condition 1 also requires revised plans showing that the apartment building has been designed to provide bird-safe building façade treatments in order to reduce the potential for bird-strikes. Landscaping around buildings, including patios and courtyards, shall be designed and sited to avoid or minimize bird-strike hazards caused by reflective surfaces such as glass fencing/railing. Buildings shall be designed to use minimal exterior lighting and minimize light pollution from interior lighting to the maximum extent feasible to minimize nighttime bird-strike hazards. Furthermore, Special Condition 1 requires expansion of the wetland buffer adjacent to the northern parking area and reconfiguration of the parking area as depicted in [Exhibit 1](#) and barriers on the access road between the apartment building and the wetland to ensure that portion of the road is only used by emergency personnel and not for daily through traffic in order to minimize disturbances to the proposed wetland and buffer restoration areas.

The project also includes removal of all 43 existing trees on the site but proposes to plant a total of 143 new trees. Consistent with LUP Policy RES-90, Special Condition 8 specifies time and operation constraints to avoid adverse impacts on sensitive species and bird nesting activities.

The applicant has indicated to Commission staff that no fuel modification will be required for the proposed project. However, the applicant has not provided evidence that fuel modification will not be required by the Orange County Fire Authority (OCFA).

Therefore, consistent with LUP Policy RES-80, the Commission imposes Special Condition 9, which requires the applicant to submit evidence of approval of a fuel modification plan or evidence that no fuel modification is needed prior to issuance of the permit. 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.

As conditioned, the Commission finds the project consistent with the Chapter 3 policies of the Coastal Act related to the protection of biological resources.

C. Cultural Resources

Section 30244 of the Coastal Act states:

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

The City's certified LUP contains the following relevant language and polices:

CUL-1 Cultural Resources. Protect cultural resources, including historical, archaeological, and paleontological features in the Coastal Zone. Where necessary to protect cultural resources, new development shall include an appropriate pre-development investigation to determine, in the least destructive manner, whether cultural resources are present. The pre-development investigation shall include recommendations as to how the site can be developed and designed to avoid or minimize significant impacts to cultural resources. In situ preservation and avoidance are the preferred alternative over recovery and/or relocation in the protection of paleontological and archaeological resources. When in situ preservation or site capping is not feasible, recovery and/or relocation may be considered. Native American tribal groups with cultural affiliation to the project site area as identified by the Native American Heritage Commission shall have the opportunity to review and comment on the pre-development plan as required by AB52 (2014). Archaeologists and representatives from Native American tribal groups shall provide monitoring during grading/excavation and construction activities of any approved development that has the potential to adversely impact any on-site significant cultural resources.

CUL-4 Architectural, Historical, and Cultural Resource Preservation and Restoration. Provide for the identification, preservation and restoration of the sites, structures, districts and cultural landscapes which have architectural, historical, and/or cultural significance.

Portions of the proposed site are currently developed and have been disturbed in the past. Intensive grading took place along the inland portions of the site in order to

construct I-5, and less intensive grading also occurred in the past to construct the existing golf clubhouse and to construct the golf course and driving range. However, a significant amount of new ground disturbance is proposed in order to construct the new apartment building, the accessory development to the apartment building (including a new access road, a large retaining wall, and parking areas), and the new golf clubhouse with a below-grade cart storage area.

The applicant's archaeological consultant produced a report based on a literature review and records check for the subject site (Ref: PSOMAS 2018). However, the archaeological consultant did not undertake a pedestrian land survey due to the heavy foot traffic, surface disturbances, and past development near the proposed project site. The archaeological report states that the subject site was part of the general territory of the Juaneño/Acjachemen and Gabrieliño/Tongva people. The archaeological consultant conducted an archaeological resource records and archival search at the South Central Coastal Information Center (SCCIC). The report identified fifteen studies that have been conducted within 0.5 miles of the project area, and no resources within 0.5 miles of the project area were associated with any of these reports.

The applicant's archaeological consultant also contacted the Native American Heritage Commission (NAHC) for a Sacred Lands File Search. On August 3, 2018, the NAHC confirmed that the results of the Sacred Lands File Search produced negative results. The NAHC provided the applicant with contact information for nine local tribes and recommended that the tribes be contacted. However, the applicant did not contact any of the tribes, as suggested by the NAHC. The applicant contends that it was not necessary to contact the local tribes because the site was included in the General Plan Update EIR and that the City reached out to all tribal contacts at that time, and no issues were raised. Furthermore, the environmental analysis prepared for the project states: "The General Plan EIR determined that development resulting from implementation of the General Plan would result in less than significant cultural resource impacts with the incorporation of mitigation." The applicant's archaeological consultant concluded that because the results of the SCCIC records search did not indicate the presence of any known cultural resources and because the project does not intend to excavate within native sediments, that archaeological monitoring should only be required if the project extends into native soils. However, the archaeological report also concluded that "...buried resources within native soils have the possibility to be encountered when construction begins..."

In order to better understand the cultural significance of the project site and the surrounding project area, Commission staff engaged in tribal consultation, consistent with the Coastal Commission's Tribal Consultation Policy. First, Commission staff wrote to the Native American Heritage Commission (NAHC) to request an updated Sacred Lands File Check for the project site. The NAHC indicated that no known cultural records were available for the project site in the Sacred Lands File, but encouraged staff to reach out to local Native American tribes who would have a more detailed understanding of the cultural resources in the area. Staff reached out to the tribal organizations to request consultation. The Juaneño Band of Mission Indians, Acjachemen Nation, responded to staff to consult on the project. Through email

communication with the Acjachemen Nation, the tribe indicated that the project site is located within a known culturally sensitive area.

According to the Acjachemen Nation, the project is located within the core of their Ancestral territory and is extremely sensitive. Furthermore, the tribe noted that because the existing clubhouse was constructed before 1965, before CEQA guidelines were in place, it is likely that the soil was not monitored during the previous grading activities, and any resources that may have been present were not protected. According to past archeological investigations, much development of the area occurred in the 1960s and 1970s, where tribal cultural resources discovered during grading were not protected, preserved, or even properly documented. In addition, the tribe noted that archaeological resources have been discovered within close proximity to the site, and that project is in the Coastal Zone, which is generally one of the most sensitive areas. This is supported by past archeological investigations in the area which documented a very large prehistoric campsite and possibly a village located approximately 1 mile to the south of the subject site.⁴ An additional campsite was located approximately 2 miles to the Southeast.⁵ According to the ethnographic evidence, this area of San Clemente was inhabited by the Acjachemen for hundreds of years. It is known that the tribal nation was not static for hundreds of years and would have migrated in and around the area for miles, so while no tribal cultural resources have yet been discovered within a 0.5-mile radius of the site, it does not mean that they do not exist, or that they are unlikely to be present. Also, according to the ethnographic evidence, the native nation consisted of permanent villages concentrated near watercourses, and the coast and settlement patterns have shown that village areas were usually concentrated in sheltered coves or canyons, near water sources, in defensive locations and on the sides of slopes in warm zones.⁶ Particularly because this site is in a canyon, monitoring during ground disturbance is critical for the preservation of any discovered deposits. Regardless of the presence or absence of archeological deposits, it is clear that the area itself (the surrounding landscape and the area in which the site is located) is a culturally significant area to the Acjachemen Nation. After reviewing the archaeological report for the subject project, the tribe recommended that Native American and Archaeological monitors be present during ground-disturbing activities.

As evidenced by the applicant's archaeological report conclusion that buried resources within native soils have the possibility to be encountered and the concerns raised by the Acjachemen Nation, there is a potential for ground disturbance activities to impact Tribal Cultural Resources that may still be present within the soil. In past permit actions near or adjacent to known tribal cultural resource sites, the Commission has required the applicants to monitor all grading and construction activities with both archeologists and members of the affected Native American tribe onsite as monitors. If cultural resources are discovered, the appropriate Native American representative will decide as to the

⁴ Garcia, Kyle and Fatima Clark, ORC Services Corp. *Phase 1 Cultural and Paleontological Resources Assessment of the proposed San Clemente Recycle Water Project*, August 2009.

⁵ Ibid.

⁶ Ibid.

appropriate treatment method and, consistent with the LUP policy, preservation in-situ is the preferred mitigation method.

To ensure that the project is consistent with the protection of any found cultural deposits and past Commission action, the Commission imposes Special Condition 13, requiring cultural and archaeological monitoring. The Condition requires that the applicant submits for review and approval by the Executive Director of an archaeological/cultural resources monitoring plan prepared by a qualified professional. To assure that the proposed project remains sensitive to the concerns of the affected Native American groups, a Native American monitor shall be present along with an archaeological monitor at the site during excavation activities to monitor the work. The Native American monitor shall meet the qualifications set forth in the NAHC's guidelines. Therefore, as conditioned, the proposed project is consistent with Section 30244 of the Coastal Act, which requires reasonable mitigation measures be provided to offset impacts to archaeological resources.

If a site is found to contain significant cultural resources, all construction shall cease within at least 50 feet of the discovery. The permittee shall report all discovered resources as soon as possible, by phone for by email to the Executive Director. If the Executive Director determines that the discovery is significant or that the treatment method preferred by the affected Native American tribe is in conflict with the approved development plan, the permittee shall seek an amendment from the Commission to determine how to respond to the discovery and to protect both those and any further cultural deposits that are encountered.

In the event that grave goods or human remains are found, the Los Angeles County Coroner's Office will be notified in compliance with state law, and they, in turn, will request the Native American Heritage Commission to determine the cultural affiliation. If cultural resources are found onsite by monitors, avoidance of the resources and preservation in situ is the preferred mitigation. If that is not feasible or not preferable to the tribal governments with documented ties to the area, then the other mitigation options may be considered, pursuant to an amendment to this permit. The Commission finds, therefore, that as conditioned, the proposed project is consistent with Section 30244 of the Coastal Act and the cultural resource protection policies of the certified LUP.

D. Visual Resources and Community Character

Section 30251 of the Coastal Act states in relevant part:

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 landforms, to be visually compatible with the character of surrounding areas...

The City's certified LUP contains the following relevant language and polices:

VIS-1 Visual Character and Aesthetic Resources Preservation. New development shall be designed to preserve the visual character and aesthetic resources of the City's coastal zone including preservation of the physical features of coastal bluffs and canyons, and where feasible, enhance and restore scenic and visual qualities of the coastal zone, including to and along the ocean and coastal bluffs, visually significant ridgelines, and coastal canyons, open spaces, prominent, mature trees on public lands, and designated significant public views (as identified on Figure 6-1 Scenic Gateways and Corridors, Figure 6-2-A Public View Corridors and Figure 6-2-B Public View Corridors). Where protection of visual character and aesthetic resources is not feasible, impacts should be mitigated.

VIS-4 Signs. Limit the size, height, numbers, and type of signs to limit sign clutter and minimize their impact to Scenic Corridors and community character.

The proposed development is not anticipated to result in impacts to scenic public views. The project site is located beyond a sound barrier block wall from the I-5 freeway, the main nearby public accessway, and is 45 feet below the grade of the I-5 freeway. The proposed four-story apartment building and one-story golf clubhouse (with basement) would be located in an area that is entirely developed with a golf course, driving range, and one-story golf clubhouse. No coastal, ocean, or canyon views exist across the site, and the site is not subject to any of the view protection categories of the certified LUP (Designated Major and Minor Scenic Corridors, Scenic Roadways, Scenic Gateways, Public View Corridors, Coastal Trail View Corridors).

Spanish-style architecture has been incorporated into the apartment building and golf clubhouse for consistency with the general community character of San Clemente. Signage associated with the proposed project is minimal and includes three freestanding signs, which will serve both the Shorecliffs apartments and golf club. Signs are proposed as follows: a shared entry monument sign with the golf club and apartments, one directional (wayfinding) sign, and one project sign for the apartments are proposed. The project also includes removal of all 43 existing trees on the site, but proposes to plant a total of 143 new trees.

The project has been designed to be consistent with the height and setback requirements in the City's certified Land Use Plan. The Commission finds the proposed development, as conditioned, consistent with Section 30251 of the Coastal Act and the scenic resource policies of the LUP.

E. Access and Recreation

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads,

(3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

The City's certified LUP contains the following relevant language and polices:

PUB-16 Bicycle Facilities. The City shall require that new or remodeled commercial, multi-family residential, and mixed-use development projects meet bicycle needs, including:

- a. Attractive destination facilities, such as secure bicycle lockers, showers, and changing rooms that are conveniently located for bicyclists, i.e. a bike station;
- b. Facilities for bicycle parking within newly-built and renovated multi-family residential developments, residential condominiums and apartment conversions to condominiums, multi-use and non-residential sites;
- c. Safe, secure, attractive and convenient bicycle parking; and
- d. Wayfinding systems and traffic control signage or markings for all bicycle facilities.

PUB-23 Parking Requirements. Continue to require new development and Major Remodels to provide off-street parking sufficient to serve the approved use in order to minimize impacts to public on-street and off-street parking available for coastal access. Continue to require properties with nonconforming parking to provide code-required off-street parking when new uses, structural alterations or additions result in increased parking demand. Prohibit modification or waiver of off-street parking requirements that are found to adversely impact public parking available for coastal access.

The project site is located approximately one mile from the coast and aside from the on-site golf course is not near any visitor serving or coastal access amenities.

As proposed, 182 parking spaces will be provided to support the proposed apartment building, which is two spaces more than required by the City's municipal code for the proposed apartment building. Parking for the golf course and the new golf clubhouse will be increased from 87 parking spaces to 124 parking spaces consistent with the City's municipal code golf course parking requirements. The City's certified LUP does not include specific parking requirements. However, consistent with LUP Policy PUB-23, the project will provide sufficient off-street parking and will not result in an adverse impact to public parking available for coastal access. In addition, consistent with LUP

policy PUB-16, decorative bike racks are included in three locations around the apartment building. Although public transit options are limited at the subject site, there is an existing bus stop directly adjacent to the golf course parking lot on Avenida Vaquero. The stop is on Orange County Transit Authority Route 1, which provides regular bus service along the coast from Long Beach to the southern edge of San Clemente. No additional transit is proposed with the subject project.

As such, the development is not expected to result in adverse impacts on public access and will not block public access from the first public road to the shore. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with Section 30252 of the Coastal Act and with the public access policies of the certified LUP.

F. Water Quality

Section 30230 of the Coastal Act states, in pertinent part:

Marine resources shall be maintained, enhanced, and where feasible, restored...

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.

The City's certified LUP contains the following relevant language and policies:

RES-28 Low Impact Development Strategies. New development and redevelopment shall give precedence to the use of a Low Impact Development (LID) approach to storm water management, which integrates site design strategies (e.g., minimizing the building footprint, preserving vegetation, and protecting natural drainage features) with small-scale, distributed Best Management Practices (BMPs) (e.g., permeable pavement surfaces, rain barrels and cisterns, and bioretention techniques) to replicate the site's natural hydrologic balance through infiltration, evapotranspiration, harvesting, detention, or retention of storm water close to the source, to the maximum extent appropriate and feasible.

RES-29 Impervious Surfaces and Infiltration. New development shall should be planned, sited and designed to minimize the installation of impervious surfaces, where feasible, especially impervious areas directly connected to the municipal storm drain system, in order to minimize increases in stormwater or dry

weather runoff. Redevelopment projects shall, where feasible, increase the area of pervious surfaces consistent with RES-30. Development shall be planned, sited, and designed to maintain or enhance on-site infiltration of runoff, where appropriate and feasible.

RES-30 Infiltration. Development shall be planned, sited, and designed to maintain or enhance on-site infiltration of runoff, where appropriate and feasible. If on-site infiltration of runoff may potentially result in adverse impacts, including, but not limited to, geologic instability, flooding, or pollution of coastal waters, the development shall substitute alternative BMPs (e.g., flow-through planter box, green roof, or cistern) that do not involve on-site infiltration in order to minimize changes in the runoff flow regime to the extent appropriate and feasible. Alternative BMPs shall also be used where infiltration BMPs are not adequate to treat a specific pollutant of concern attributed to the development, or where infiltration practices would conflict with regulations protecting groundwater.

RES-31 Creation and Restoration of Areas with Water Quality Benefits. Where feasible, development shall be planned, sited, and designed to preserve or enhance non-invasive vegetation to achieve water quality benefits such as transpiration, interception of rainfall, pollution uptake, shading of waterways to maintain water temperature, and erosion control. New development and redevelopment shall preserve, and where possible, create or restore areas that provide important water quality benefits, such as riparian corridors, coastal canyons, vernal pools, wetlands, and buffer zones, and the City encourages land acquisition of such areas.

RES-32 Maintain or Enhance Natural Drainage Features. Development shall be planned, sited, and designed to protect the absorption, purification, and retention functions of natural drainage features (e.g., stream corridors, drainage swales, topographical depressions, floodplains, and wetlands) that exist on the site. Where feasible, drainage plans shall be designed to complement and utilize existing drainage patterns and features, conveying drainage from the developed area of the site in a non-erosive manner with appropriate treatment. Disturbed or degraded natural hydrologic features shall be restored, where feasible.

RES-33 Stormwater Runoff Plans. All projects that require a Coastal Development Permit (CDP) and have the potential for adverse water quality or hydrology impacts to coastal waters shall prepare both a construction-phase and a post-development runoff plan. Runoff management shall be addressed early in the development's planning and design stages. As part of CDP approval, the City shall require that the runoff plans include stormwater pollution control and runoff control measures or systems, and a maintenance program, as necessary, for both the construction-phase and post-development runoff plans. The post-development maintenance program shall be for the life of the development. The level of detail provided to address the plan's requirements shall be commensurate with the type and scale of the development, and with the potential for adverse water quality and hydrology impacts to coastal waters.

RES-34 Minimizing Pollutants and Runoff. Site, design, and manage new development and improvements, including – but not limited to – landscaping, to protect coastal waters from nonpoint source pollution by minimizing the transport of pollutants in runoff and minimizing post-development changes in the site’s runoff volume, flow rate, timing, and duration. Review new development and improvements for potential degradation of water quality and water resources.

A Water Quality Management Plan (WQMP) for the site prepared by Urban Resource Corporation dated October 2, 2019, describes the proposed site drainage system. Offsite flows will not be comingled with the onsite development flows. The applicant has designed various landscape areas around the perimeter of the apartment building to allow for some onsite infiltration, although the majority of drainage from the proposed project will be conveyed offsite. As proposed, the only onsite runoff that will drain towards the wetlands will originate from the proposed buffer restoration area. No onsite runoff from the developed area is proposed to drain into the buffer restoration area or the wetland.

Prior to conveying onsite runoff offsite, drainage is proposed to be routed through underground water treatment systems. As proposed, drainage would then be conveyed via surface flows and storm drain pipes to the adjacent golf course. Once runoff reaches the golf course, it will either travel through a “man-made low flow vegetated channel” before reaching an existing below-grade reinforced concrete box culvert or will be routed directly into the below-grade culvert. The channel and the culvert were previously approved by the Commission to replace an existing blue line stream (Ref: CDP No. 5-93-006/Prima Deshecha RC Box). The below-grade culvert is part of a larger drainage facility that also includes open channels. The channel runs for approximately 5.5 miles, from its headwater in the foothills of the Santa Ana Mountains to the outlet at the ocean side of Pacific Coast Highway at Poche Beach. Drainage from offsite that comes onto the project site will be routed via an onsite storm drain or through an existing drainage channel along the northwestern portion of the site into the existing culvert.

For a site as large as the subject site, the Commission would typically recommend that an applicant prioritize retention of stormwater and dry-season runoff onsite (i.e., conventional earthen-based bio-swales), as opposed to the proposed modular wetland system that detains, but does not retain stormwater. However, in the project’s Conceptual Water Quality Management Plan (CWQMP), the applicant finds the following:

Maximize Natural Infiltration Capacity- Natural infiltration is provided to the maximum extent practicable only in landscaped areas. Infiltration is not feasible for this site, based on geotechnical evaluation, and the shallow groundwater conditions specified in the Geotechnical report... (p. 14 of CWQMP)

The Commission’s water quality technical staff has reviewed the applicant’s water quality reports and concurs that the proposed modular wetland system is appropriate for the subject site. To ensure that impacts to water quality are reduced to the maximum extent feasible during construction and post-construction, the applicant will be required

to implement best management practices (BMPs) designed to minimize erosion and prevent debris from entering the storm drain system. Special Condition 10 requires erosion control/sedimentation Best Management Practices (BMP's) to control sedimentation impacts on coastal waters during construction. Special Condition 11 requires that the applicant implement structural and/or non-structural Best Management Practices (BMPs) designed to minimize pollutant loads contained in runoff prior to entering the stormwater conveyance system and to maintain post-development peak runoff rate and average volume from the site at levels similar to pre-development conditions, to the extent feasible. Special Condition 12 requires submittal, prior to issuance of the CDP, of final Water Quality and Hydrology Plans, in substantial conformance with the Conceptual Water Quality Management Plan (WQMP) Shorecliffs Senior Housing dated October 2, 2019, and Preliminary Hydrology Report Shorecliffs Senior Housing dated October 2, 2019. Special Condition 2 requires the submittal of a revised landscaping plan that includes installation of non-invasive, drought-tolerant vegetation and water conservative irrigation systems.

As proposed, the project will minimize the project's adverse impact on coastal waters to such an extent that it will not have a significant impact on marine resources, biological productivity, or coastal water quality. Therefore, the Commission finds that the proposed development, as conditioned, conforms to the Coastal Act policies (Sections 30230 and 30231) and the policies of the City's certified LUP regarding the protection of water quality to protect marine resources, promote the biological productivity of coastal waters, and to protect human health.

G. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit for development in an area with no certified Local Coastal Program only if the project will not prejudice the ability of the local government to prepare an LCP that conforms with Chapter 3 policies of the Coastal Act. The Commission certified the Land Use Plan (LUP) for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan (IP) portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The City resubmitted an IP on June 3, 1999, but withdrew the submittal on October 5, 2000. In 2018, the City certified an LUP amendment for a comprehensive update of the LUP. The City is currently also working on resubmittal of an IP. There is no certified LCP at this time. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that conforms with Chapter 3 policies of the Coastal Act.

H. California Environmental Quality Act

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, 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 that the activity may have on the environment.

The City of San Clemente is the lead agency for purposes of CEQA compliance. An environmental analysis was prepared by the City's consultant (Reference: Greystar Senior Housing Project CEQA Guidelines Section 15183 Analysis, prepared by Kimley-Horn and Associates, Inc., dated February 2019). On March 6, 2019, the City Planning Commission determined that the project is exempt from CEQA pursuant to Section 15183, which allows for a streamlined environmental review process for projects that are consistent with the densities established by existing zoning, community plan or general plan policies for which an Environmental Impact Report (EIR) was certified. The City found that under CEQA Guidelines Section 15183, the subject project is relieved from further environmental review because all significant impacts were addressed in the prior General Plan EIR and that the project is consistent with the land use designations and development densities and intensities assigned to the project site in the General Plan. The City also found that cumulative and off-site impacts associated with the proposed project were fully addressed in the General Plan EIR (SCH No. 2013041021) and that implementation of the project would not result in any new or altered cumulative impacts or off-site impacts beyond those addressed in the General Plan EIR. The City further determined that no additional environmental analysis is required under CEQA associated with the approval of the proposed project.

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate potential impacts, 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 San Clemente Certified Land Use Plan
- City of San Clemente Staff Report - Site Plan Permit 17-339 and Conditional Use Permit 17-338
- City of San Clemente Planning Commission Resolution No. PC 19-006, approved March 6, 2019
- Greystar Senior Housing Project CEQA Guidelines Section 15183 Analysis, prepared by Kimley-Horn and Associates, Inc., dated February 2019
- Wetland Protection and Enhancement Plan, Coastal Development Permit Application No. 5-19-0228 (501 Avenida Vaquero, San Clemente, Orange County) prepared by Glenn Lukos Associates, dated April 15, 2020.
- Wetland Protection and Enhancement Plan, Coastal Development Permit Application No. 5-19-0228 (501 Avenida Vaquero, San Clemente, Orange County) prepared by Glenn Lukos Associates, dated September 19, 2019.
- Glenn Lukos Associates. (November 2018). *Results of a Biological Resource Assessment and Surveys for the Greystar Senior Apartment Site and Relocated Golf Clubhouse*. Irvine, CA.
- Jurisdictional Delineation for the Greystar Senior Apartment Site, an Approximately Nine-Acre Site Located in San Clemente, Orange County, by Glenn Lukos Associates, dated August 28, 2018
- CDP Staff Report No. 5-93-006/Shorecliffs Box Culvert
- Conceptual Water Quality Management Plan (WQMP) Shorecliffs Senior Housing, by Urban Resource Corporation, dated October 2, 2019
- Preliminary Hydrology Report Shorecliffs Senior Housing, by Urban Resource Corporation, dated October 2, 2019
- Shorecliffs Senior Housing Architectural Plans, by Van Tilburg, Banvard & Soderbergh, AIA, dated March 18, 2019
- Shorecliffs Senior Housing Landscaping Plans, by MJS Landscape Architecture, dated March 15, 2019
- Shorecliffs Senior Housing Civil Plans, by Urban Resource Consulting Civil Engineers, dated March 13, 2019
- Literature Review and Records Check Results for the San Clemente Shorecliff Project, by PSOMAS, dated September 6, 2018.

APPENDIX B – CULTURAL RESOURCES SIGNIFICANCE TESTING PLAN PROCEDURES

- A. An applicant seeking to recommence construction following discovery of the cultural deposits shall submit a Significance Testing Plan for the review and approval of the Executive Director. The Significance Testing Plan shall identify the testing measures that will be undertaken to determine whether the cultural deposits are significant. The Significance Testing Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), and the Most Likely Descendent (MLD) when State Law mandates identification of a MLD. The Executive Director shall make a determination regarding the adequacy of the Significance Testing Plan within 10 working days of receipt. If the Executive Director does not make such a determination within the prescribed time, the plan shall be deemed approved and implementation may proceed.
- a. 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.
 - b. 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.
 - c. 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 B 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.
- B. An applicant seeking to recommence construction following a determination by the Executive Director that the cultural deposits discovered are significant shall

submit a supplementary Archaeological Plan for the review and approval of the Executive Director. The supplementary Archeological Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), the Most Likely Descendent (MLD) when State Law mandates identification of a MLD, as well as others identified in subsection E of this condition. The supplementary Archeological Plan shall identify proposed investigation and mitigation measures. 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.

- a. 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.
 - b. 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.
- C. 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.