CALIFORNIA COASTAL COMMISSION
South Coast District Office
301 E Ocean Blvd., Suite 300
Long Beach, CA 90802-4302
(562) 590-5071

W14d

Filed:	3/4/20
180th Day:	8/31/20
Tolled to:	10/30/20
Staff:	MV-LB
Staff Report:	6/24/20
Hearing Date:	7/8/20

STAFF REPORT: REGULAR CALENDAR

Application No.: **5-19-1033**

Applicant: City of San Clemente
Amir Ilkhanipour

Agents: LGC Geotechnical, Inc.
Tim Lawson

Location: Northbound side of North El Camino Real, approximately 3,300 feet north of the intersection with Avenida Pico, San Clemente, Orange County
APN: 691-431-01 and Public Right-of-Way (street)

Project Description: Landslide stabilization on a coastal bluff consisting of construction of a series of 15 buried concrete buttresses, 3 hydraugers, track walk and grade sloughed area; replacement of damaged sidewalk, curb, bike lane and bike lane striping; reconstruction of three-foot-high slough wall; and revegetation of project area with native species.

Staff Recommendation: Approval with conditions.

Staff Note: Under the Permit Streamlining Act, the time-frame for Commission action on this coastal development permit application is 8/31/2020, 180 days after the 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 various actions in the Permit

Streamlining Act for 60 days. Accordingly, the Commission must act on this CDP application on or before 10/30/2020.

SUMMARY OF STAFF RECOMMENDATION

The proposed project involves landslide stabilization on a coastal bluff consisting of construction of a series of fifteen buried concrete buttresses, three hydraugers, track walking and grading the sloughed area; replacing damaged sidewalk, curb, bike lane and bike lane striping; reconstruction of a three-foot-high slough wall at the toe of the slope; and revegetating the project area. Although this bluff is a coastal bluff, development is present between its toe and the ocean. The landslide occurred within the lower portions of the bluff, which is where the remediation is proposed. No work is proposed to the upper, steep portion of the bluff. Development between the bluff and the ocean includes: North El Camino Real, rail road tracks, a separated bicycle/pedestrian path, the Capistrano Shores mobile home park, and the mobile home park's revetment. Above this bluff, construction is underway on the Marblehead project (also known as Sea Summit) approved via Coastal Development Permit No. 5-03-013, as amended. That development was required to be set back from the bluff edge so as not to require future bluff stabilization. The Marblehead/Sea Summit development is not threatened by this landslide. The proposed protective work is necessary to protect the existing El Camino Real roadway, sidewalk, and bike lane, and members of the public walking, riding, or driving there.

The goal of the project is to safely re-open the public sidewalk, bike lane, and shoulder of North El Camino Real and to minimize potential future landslide impacts to those features. At this location, El Camino Real is a linkage between upcoast and downcoast segments of Pacific Coast Highway, and thus is a major coastal access route. The sidewalk and bike lane at the site also link the inland public trails of the Marblehead development to the nearest safe pedestrian/bicycle crossings to public beaches. Both North El Camino Real and the rail road tracks make it unsafe to cross in the immediate vicinity. The nearest safe crossing to the south is at Avenida Estacion, and leads to North Beach, approximately 2,500 feet to the south. The nearest safe crossing to the north is at Camino San Clemente. Poche Beach is opposite Camino Capistrano, approximately 1,600 feet to the north (**Exhibit 1**). The repaired sidewalk and bike lane provide safe pathways to these safe crossings.

Landslide movement began on February 13, 2019, and continued to move over the following two or three days, resulting in the overturning of a small debris wall and displacing the northbound sidewalk associated with North El Camino Real. The landslide appears to have stopped moving; however, it is still blocking the northbound bike lane and sidewalk along North El Camino Real. The landslide occurred in an area of steep natural bluffs approximately 75 to 85 feet in height. The area of steep natural bluffs essentially parallels North El Camino Real for a length of approximately one mile.

The landslide occurred within a portion of this last remaining area of natural bluffs that have not been subject to stabilization operations.

Throughout the 1990s a number of coastal development permits were sought, and some were approved, to address the instability of the Marblehead bluffs facing North El Camino Real. Approximately 2,500 linear feet of the coastal bluffs were laid back as a result of this emergency grading in the 1990s. The subject site is within a remaining natural area of these Marblehead coastal bluffs that has not been previously graded/stabilized. The applicant's geotechnical consultant states that "[t]he proposed repair is intended to stabilize the slope and arrest the movement of the subject landslide in order to repair North El Camino Real improvements and allow safe passage of pedestrians and vehicles with the least possible impact to the natural bluffs above."

North El Camino Real constitutes existing development, constructed decades prior to the Coastal Act, sometime in the 1930s. The proposed bluff stabilization is not expected to have impacts on shoreline sand supply due to the intervening development between it and potential wave attack. Even assuming that marine erosion were to resume at this site at some point in the future, the discontinuous nature of the proposed buttresses would make them rather ineffective at protecting the bluff against wave attack. The footprints of the buttresses are perpendicular to the shoreline and are not connected to each other, and so the sand supply impact of the project would likely be very small.

The subject site falls within the area of a habitat preservation and restoration conservation easement required under CDP 5-03-013 for the Marblehead Development. The conservation easement area is managed by the Center for Natural Lands Management (CNLM). The CNLM is aware of the proposed landslide remediation project, and has provided comments, including a request that the work be monitored by a qualified biologist (ecologist resources specialist), that gnatcatcher surveys be conducted, and that native topsoil be preserved and replaced in the upper levels of the graded area. CNLM has reviewed and accepted the proposed revegetation plan.

Special Condition 1.A of CDP 5-03-013 allows erosion control and repair within the conservation easement. The Habitat Management Plan (HMP) approved via CDP 5-03-013 limited habitat enhancement and restoration actions within the remaining unstabilized slope adjacent to El Camino Real (i.e. the subject slope/project area) to "actions consistent with the public safety relative to the unstable condition of the slope above the roadway. Specifically, this area will be subject to hydroseeding with no irrigation and removal of non-native species in a manner that does not exhibit potential to de-stabilize the slope (e.g., no work will be performed on the steeper portions of the slope and the roots of non-native trees and shrubs will be left in place)."

No recent vegetation survey was conducted prior to the landslide at the subject site. However, the 2014 Marblehead Annual Monitoring Report (Feb. 2015), mapped coastal bluff scrub, Coulter's saltbush and Blochman's dudleya in the immediate project vicinity. Recent gnatcatcher surveys (2020, 2018) identified gnatcatcher nests within the project vicinity. In addition, a suite of raptor species is known to forage in the Marblehead open space. In order to protect gnatcatcher

nesting and generally continued bird use of the area, recommended **Special Condition 1** requires that if any work is to be conducted during the bird breeding season (February 15 through August 30), a qualified biologist or ecological resources specialist must conduct a nesting bird survey prior to any construction activities. If any active nests are discovered, work may only occur farther than 300 feet from any active songbird nest and farther than 500 feet from any active raptor nest. In addition, decibel levels must be kept at or below a peak of 65 dB at the nest(s) site(s). Additionally, if construction activities occur during the breeding season, the work must be monitored by a qualified biologist or ecological resources specialist.

Under CDP 5-03-013 and the Habitat Management Plan approved for that project, the subject area was recognized as unstable and habitat enhancement and restoration were limited to hydroseeding, with no work performed on the steeper portions of the slope. As proposed, the project includes hydroseeding the site once landslide remediation construction and earth work is complete. The proposed hydroseed list (**Exhibit 3**) includes only plant seeds native to San Clemente coastal bluff scrub habitat, and, more specifically, those plants that have performed well on the manufactured bluff slopes south of the site. The proposed hydroseeding is consistent with the approved HMP for the conservation easement area. In addition, the applicant, prior to grading, proposes to remove all native brush plants with a canopy larger than 12 inches that survived or have developed within the landslide debris; temporarily store them; and replant them in the approximate locations from which they were removed once project earth work is complete. Irrigation is specifically not proposed at the site.

Some additional measures could be incorporated into the proposed revegetation that may improve the likelihood of success. These include reducing site erosion through measures such as placement of straw wattles and/or similar erosion control devices that do not require significant disturbance to install and that dissipate on their own over time. This may assist both with reducing erosion at the site as well as allowing fledgling plants to establish. Another useful measure would be to track the revegetation over time to determine whether native plants are successfully establishing, and that if the revegetation does not reach 50% native cover within three years, the status of revegetation be revisited. Recommended **Special Condition No. 3** requires these additional measures be added to the proposed revegetation plan.

CDP 5-03-013 and the related approved HMP recognize the presence of a wetland on the bluff top above the landslide area (Wetland A). The proposed development will have no impact on the continuance of the wetland on the bluff top above the site.

Staff is recommending approval of the proposed development subject to special conditions intended to assure consistency with the Coastal Act policies regarding hazards, alteration of natural landforms, bluff protective devices, and protection of habitat including nesting birds. Staff is recommending four special conditions, which require: 1) special protections during the bird breeding season; 2) future buttress maintenance allowed only for the continued protection of North El Camino (and may not

be relied upon for any off-site development); 3) revisions to the proposed revegetation plan; and 4) construction best management practices.

Commission staff recommends that the Commission **APPROVE** Coastal Development Permit application 5-19-1033, as conditioned. The motion to adopt the staff recommendation is on page 7. The standard of review is Chapter 3 of the Coastal Act.

Contents

Exhibits:

Exhibit 1 – Vicinity Maps
Exhibit 2 – Project Plans
Exhibit 3 – Proposed Hydroseed Mix
Exhibit 4 – Geologic Cross Sections
Exhibit 5 – Manufactured Slope Areas & Natural Slope Area
Exhibit 6 – Landslide Photos
Exhibit 7 – Ownership Boundary
Exhibit 8 – Gnatcatcher Surveys 2019 & 2018
Exhibit 9 – Blochman's Dudleya Locations 2014

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit 5-19-1033 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. 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. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

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 of interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment**. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

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

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. Construction Timing and Sensitive Bird Species Surveys. For any construction activities, including grading, buttress construction and installation of hydraugers, occurring between February 15 and September 1, the applicant shall retain the services of a qualified biologist or environmental resources specialist (hereinafter, "environmental resources specialist") to conduct nesting bird surveys in order to determine the presence of songbird and raptor and owl species including but not limited to the coastal California gnatcatcher (Polioptila californica californica). The environmental resources specialist shall also monitor project operations. At least 30 calendar days prior to commencement of any project operations, the applicant shall submit the name and qualifications of the environmental resources specialist, for the review and approval of the Executive Director. The applicant shall ensure that all project construction operations shall be carried out consistent with the following:

A. A qualified environmental resources specialist with experience in conducting nesting bird surveys shall conduct the surveys 30 calendar days prior to construction activities within 500 feet of the project. A follow-up survey must be conducted 3 calendar days prior to the initiation of construction, and nest surveys must continue on a monthly basis throughout the nesting season or until the project is completed, whichever comes first.

B. If an active nest of any songbird is found within 300 feet of the project, or an active nest for any raptor species is found within 500 feet of the project, the applicant shall retain the services of an environmental resources specialist with experience conducting bird and noise surveys, to monitor bird behavior and construction noise levels. The nest shall not be removed or disturbed. The environmental resources specialist shall be present at all relevant construction meetings and during all significant construction activities (those with potential noise impacts) to ensure that nesting birds are not disturbed by construction related noise. The environmental resources specialist shall monitor birds and noise every day at the beginning of the project and during all periods of significant construction activities. Construction activities may occur only if construction noise levels are at or below a peak of 65 dB at the nest(s) site(s). If construction noise exceeds a peak level of 65 dB at the nest(s) site(s), sound mitigation measures such as sound shields, blankets around smaller equipment, mixing concrete batches off-site, use of mufflers, and minimizing the use of back-up alarms shall be employed. If these sound mitigation measures do not reduce noise levels, construction shall cease

and shall not recommence until either new sound mitigation can be employed or the birds have fledged.

C. If an active nest of a federally or state-listed threatened or endangered species or bird species of special concern is found within 300 feet of the project, or an active nest for any species of raptor is found within 500 feet of the project, the applicant will notify the appropriate State and Federal Agencies within 24 hours, and appropriate action specific to each incident will be developed. The applicant will notify the California Coastal Commission by e-mail within 24 hours and consult with the Commission regarding determinations of State and Federal agencies.

D. The environmental resource specialist shall be present during all construction activities during the bird nesting/breeding season if an active nest is identified, until the birds have fledged.

E. The environmental resource specialist shall require the applicant to cease work should any breach in compliance with this condition occur, or if any unforeseen senstive habitat issues arise. The environmental resources specialist shall immediately notify the Executive Director if activities outside the scope of the subject CDP occur. If significant impacts or damage occur to sensitive habitats or to wildlife species, the applicant shall be required to submit a revised or supplemental program to adequately mitigate such impacts.

2. Future Improvements. This permit is only for the development described in coastal development permit (CDP) 5-19-1033. Pursuant to Title 14 California Code of Regulations (CCR) Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) Section 30610(b) shall not apply to the development governed by the CDP 5-19-1033. Accordingly, any future improvements to this structure authorized by this permit shall require an amendment to CDP 5-19-1033 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government. In addition thereto, an amendment to CDP 5-19-1033 from the Commission or an additional CDP from the Commission or from the applicable certified local government shall be required for any repair or maintenance identified as requiring a permit in PRC Section 30610(d) and Title 14 CCR Sections 13252(a)-(b).

3. Revegetation.

A. By acceptance of this permit the applicant agrees to carry out re-vegetation of the site as proposed, including by the removal of existing native plants with a canopy of 12 inches or greater prior to commencement of earth work, safely storing such plants as necessary to retain their health, and replanting them in the approximate location from which they were removed within two weeks of completion of earth work (timing may be adjusted, subject to the approval of the

Executive Director, for good cause); and by the application of a hydroseed mix made up of seeds native to San Clemente coastal bluffs; and with the following modifications:

1. The proposed hydroseed mix shall be modified such that the following seed types are added: 1 lb/acre lemonade berry, Rhus integrifolia *(*located only along the toe of the slope) and 2 lb/acre California croton, Croton californicus.

2. The applicant shall include erosion control measures within the project area, such as straw wattles, straw plugs, jute erosion control matting, etc., that do not require significant disturbance to install, do not interfere with plant growth and health, and that dissipate on their own over time;

3. Invasive non-native plants shall not be allowed to establish (this does not include annual European grasses – the Commission does not expect the applicant to eradicate these non-native grasses);

4. An acceptable vegetative cover of the project site shall constitute 50% cover by native species within three years;

5. Progress of plant growth of each plant type within the project area shall be assessed by the project applicant on a regular basis (at least quarterly), demonstration of the plant growth and coverage, or lack thereof, shall be supported by regularly scheduled photography of the site;

6. Reports based on the status of the revegetation success at the subject site and including the site photos (see 5 above) shall be provided annually by the applicant to the Executive Director, for a minimum of three years;

7. If, at the end of three years from the date of planting (preserved plants and hydroseeding), the goal of 50% cover by native plants is not achieved, the applicant shall report this status to the Executive Director with an assessment of possible other methods that could be employed to improve the success rate. The methods may include decreasing the degree of soil compaction, and/or adjusting the types of native plants, or other methods that may become apparent over the three year period; any modification methods proposed shall be subject to the review and approval of the manager of the subject conservation easement (Center for Natural Lands Management, CLNM).

8. The Executive Director, in consultation with the CLNM conservation easement manager, shall work with the applicant to determine next steps, based upon the possible options identified and condition of the site at the time.

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

4. Construction Best Management Practices.

A. The permittee shall comply with the following construction-related requirements and shall do so in a manner that complies with all relevant local, state and federal laws applicable to each requirement:

1. No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;

2. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;

3. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;

4. Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMP's shall include but are not limited to the placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and

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

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

1. The permittee shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from any receiving waters and storm drain inlets as possible;

2. The permittee shall develop and implement spill prevention and control measures;

3. The permittee shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50 feet away from a storm drain, open ditch or surface water; and

4. The permittee shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Location

The subject site is located along the northbound, inland side of North El Camino Real, approximately 3,300 feet north of the intersection with Avenida Pico (**Exhibit 1**). The proposed project involves stabilization of a portion of a coastal bluff that eroded due to landslide movement. At this location, El Camino Real is a linkage between upcoast and downcoast segments of Pacific Coast Highway, and thus is a major coastal access route. The sidewalk and bike lane at the site also link the inland public trails of the Marblehead development (also known as Sea Summit) to the nearest safe pedestrian/ bicycle crossings to the public beaches at Avenida Estacion to North Beach, approximately 2,500 feet to the south, and at Camino San Clemente, which leads to access to Poche Beach at Camino Capistrano, approximately 1,600 feet to the north (**Exhibit 1**). The proposed protective work is necessary to protect the existing El Camino Real roadway, sidewalk, and bike lane, and members of the public walking, riding, or driving there.

The goal of the project is to safely re-open the sidewalk, bike lane, and shoulder, and to minimize potential future landslide impacts to those features. Above this bluff, construction is underway on the Marblehead/Sea Summit project approved via Coastal Development Permit 5-03-013, as amended. That development was required to be set back from the bluff edge so as not to require future bluff stabilization. That development is not threatened by this landslide.

The landslide is proposed to be stabilized utilizing a series of fifteen buried concrete buttresses (**Exhibit 2**). These buttresses will be constructed by excavating approximately 3-foot wide by 20-foot long trenches perpendicular to the landslide/slope. The buttresses will be excavated to a minimum depth of 5 feet below the landslide rupture surface into the underlying bedrock. Following excavation, the trenches are to be backfilled with concrete and capped with compacted native soils. The resulting

concrete buttresses will be keyed into the bedrock with the intent to prevent any gross future movement of the landslide mass.

In addition to the concrete buttresses, the proposed repair will include the installation of a series of three hydraugers to prevent the buildup of groundwater (hydrostatic) pressure within the landslide mass. Hydraugers are essentially slotted 1½ inch diameter PVC pipes that are inserted into an open, slightly inclined, 3-inch diameter, horizontal drill hole that penetrates the slide mass to drain groundwater. The hydraugers will directly outlet through the replacement curb face to the gutter and to the storm drain system. Hydraugers are not required for geotechnical stability; however, they reduce the amount of stabilization (the number of concrete buttresses) needed to arrest the landslide movement and provide a convenient way to reduce the current amount of free flowing water from the slide mass onto the sidewalk at the toe of slope.

The proposed project will also involve grading of the approximately 0.25-acre project site (**Exhibit 2**). Proposed grading includes:

Cut (Initial Grading Prep):	150 cubic yards (export)
Cut (Buttress Excavations):	430 cubic yards
Fill (Concrete):	430 cubic yards
Fill (Native Cap Soil):	250 cubic yards
Remaining Export (Buttress Export):	170 cubic yards

The proposed grading includes removal of the displaced soil from the bike lane, curb, sidewalk, and slough wall; grading and removal of excess soil behind the slough wall to the approximate elevations prior to the slide; and placement of 2-foot native cap over the buttress blocks. As proposed, all export material will be discharged at a legal disposal site. The location of the disposal site is not known at this time, but if it is located within the coastal zone, an amendment to this permit or a new coastal development permit will be required.

In addition, the proposed remediation work includes: track walk and grade the repaired material; reconstruction of the 3-foot-high slough wall; and revegetate the repaired area. Revegetation will include hydroseeding the project area with seeds of the types of plants local to San Clemente bluffs, and more specifically, seeds that have performed well on the reconfigured bluff slopes south of the site (**Exhibit 3**). In addition, the applicant proposes to remove all native brush plants with larger than a 12-inch canopy, temporarily store them, and replant them in the approximate location from which they were removed once project grading is complete. No irrigation is proposed at the site.

Movement of the landslide began on February 13, 2019, and continued to move over the following two or three days, resulting in the overturning of a small debris (slough) wall and displacing the northbound sidewalk and bike lane associated with North El Camino Real (**Exhibit 6**). The landslide occurred in an area of steep natural bluffs

approximately 75 to 85 feet tall. The area of steep natural bluffs essentially parallels North El Camino Real for a length of approximately 500 feet and is within the only area of natural bluffs that have not been subject to stabilization operations. Currently it appears the landslide has stopped moving; however, it is still blocking the northbound bike lane and sidewalk along North El Camino Real.

The subject site falls within the area of the habitat preservation and restoration conservation easement required under CDP 5-03-013 for the Marblehead Development. The conservation easement area is managed by the Center for Natural Lands Management (CNLM). The CNLM is aware of the proposed landslide remediation project, and has provided comments, including a request that the work be monitored by a qualified biologist (ecologist resources specialist), that gnatcatcher surveys be conducted, and that native topsoil be preserved and replaced in the upper levels of the graded area. CNLM has reviewed and accepted the proposed revegetation plan.

Standard of Review
The City of San Clemente has a certified Land Use Plan, but it does not yet have a certified Implementation Plan, so there is no complete Local Coastal Program. As a result, the standard of review is the Chapter 3 policies of the Coastal Act.

B. Site Background

History of Emergency Bluff Grading during the 1990s
Throughout the 1990s a number of CDPs were sought, and some were approved, to address instability of the Marblehead bluffs face along North El Camino Real. The Coastal Commission Executive Director issued two Emergency CDPs to address the bluff instability hazards (5-90-122-G and 5-90-274-G, both in 1990). Approximately 2,500 linear feet of the coastal bluffs were laid back as a result of this emergency grading in 1990. Subsequent follow up CDPs were withdrawn by the applicant prior to Coastal Commission action (CDPs 5-90-263, 5-94-274). In 1995, the Commission granted CDP 5-94-256 and CDP Amendment 5-94-256-A to the City of San Clemente for a slope stabilization project along the bluffs at Colony Cove, which is immediately northwest of the Marblehead site. In addition to stabilizing the bluffs at Colony Cove, this stabilization project extended onto the Marblehead project site. The Executive Director also issued the related Emergency CDP G5-94-256. Approximately 400 linear feet of bluffs on the Marblehead site were also graded under 5-94-256, 5-94-256A, and G5-94-256.

Blochman's dudleya, wetlands, maritime bluff scrub, coastal sage scrub, native grasslands, and annual grassland used as raptor foraging were located within these areas of past emergency grading. The bluff stabilization work that occurred throughout the 1990s resulted in adverse impacts to these native habitats. Implementation of the Habitat Management Plan (HMP) approved under 5-03-013 and long-term management of the preservation and restoration areas covered by the HMP as required under CDP 5-03-013, continues to be imposed and implemented to address these impacts.

The proposed landslide remediation will occur within the area of the remaining natural (unstabilized) bluff that has not been subject to stabilization in the past (**Exhibit 5**). Marblehead development above the subject bluff area was required to be set back from the bluff edge under CDP 5-03-013, so as not to require future bluff stabilization. That development is not threatened by this landslide.

Marblehead CDP 5-03-013

On April 9, 2003,[1] the Coastal Commission approved CDP 5-03-013 for:

> Residential and commercial development, public park, trails and open space and associated infrastructure including roads and utilities on the 201.38 acre portion of the Marblehead property within the coastal zone. Included are a property subdivision and construction of 313 single family homes on 44.24 acres, 141,506 square feet of commercial space in ten commercial buildings on 22.3 acres, 15.43 acres of public parks; 95.04 acres of public and private open space and pedestrian and bicycle trails; 12.43 acres of private streets; 10.91 acres of public streets; more specifically described in Section II.A. of this staff report. The application also requests follow-up approval for emergency bluff stabilization grading that occurred in the early 1990s.

The Commission approved CDP 5-03-013 subject to 34 special conditions pertaining to protection of wetlands and upland environmentally sensitive habitat area (ESHA), alteration of natural landforms, avoidance of geologic hazards, provision of public access and recreation facilities, protection of water quality, and protection of archeological resources. Eight amendments related to CDP 5-03-013 were submitted, of which one (Amendment No. 2) was rejected. Amendment No. 4 included, among other things, a modification to the approved Habitat Management Plan (required by Special Condition No. 10 of CDP 5-03-013) to allow planting of two additional shrubs on the westernmost boundary of the site near Colony Cove. The remainder of the amendments did not affect the subject bluff remediation or habitat preservation areas.

CDP 5-03-013 Special Conditions Relevant to Current Project

Special Condition 1.A limits the uses allowed within the habitat preservation and restoration areas (i.e. habitat conservation easement). The subject site is located within the conservation easement. Special Condition 1.A includes the following language:

> "The following additional development may be allowed in the areas covered by this condition (1.A.) if approved by the Coastal Commission as an amendment to this coastal development permit or a new coastal development permit: habitat restoration, construction and maintenance of passive public recreation and access facilities and appurtenances, maintenance, repair and upgrade of utilities,

[1] Revised Findings for CDP 5-03-013 were adopted by the Coastal Commission on 6/11/2003.

> water quality management structures, and drains, and **erosion control and repair**." [Emphasis added.]

The proposed development is consistent with the restrictions placed on the uses allowed within the conservation easement in that it is an "erosion control and repair" project for which a CDP is being sought.

5-03-013 Spec Condition No. 10 required implementation of an approved HMP to be implemented on the habitat preservation and restoration areas, including the subject landslide remediation site. Consideration of this is addressed in the Habitat section of this staff report.

Ownership

The inland-most area of the subject site is owned by Marblehead Development Partners, LLC. Marblehead Development Partners, LLC has been made aware of the proposed landslide remediation project, pending this CDP application, and has been invited to join in the application as a co-applicant. In response, Marblehead Development Partners, LLC has acknowledged and concurred with the proposed development, but has declined to become a co-applicant (**Exhibit 7**). In addition, the inland portion of the project site is within the habitat conservation easement required by CDP 5-03-013, but the staging area and area of concrete buttresses, except for one, is not. Portions of the hydraugers will extend within the habitat conservation easement. The entirety of the subject site is included within the HMP approved via CDP 5-03-013. The manager of the conservation easement responsible for implementation of the approved HMP, the Center for Natural Lands Management, has been made aware of the proposed project and generally supports the proposed development, provided the condition regarding the presence of a qualified biologist and efforts to avoid impacts to nesting birds are incorporated into the project (discussed in greater detail in the habitat section of this staff report).

C. Shoreline Protection

Coastal Act section 30253 states, in pertinent part:

> New development shall do all of the following:
> (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
> (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Coastal Act section 30251 states:

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

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

Coastal Act section 30235 states:

> Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fishkills should be phased out or upgraded where feasible.

Coastal Act Section 30253 prohibits development that would "in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." Coastal Act Section 30251 also requires that development minimize alteration of natural landforms (such as coastal bluffs), and also requires that scenic and visual qualities be protected. The Coastal Act limits construction of bluff protective devices because they have a variety of negative impacts on coastal resources including adverse effects on shoreline sand supply, public access, scenic views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach. The City's certified LUP also includes similar policies that require landform alteration be minimized, and that scenic qualities be protected. For all these reasons, the Commission would typically be required to deny applications for such devices, were it not for Section 30235.

Section 13577(h)(1) of the Commission's Regulations defines "coastal bluff" to include "those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion[.]" The Commission's staff geologist has reviewed the proposed development, along with available historical maps and aerial photographs, and has concluded that the bluff at the site meets the definition of a "coastal bluff." Although existing development (Capistrano Shores mobile home park, the railroad, North El Camino Real) now intervenes between the project site and shore, the subject bluff once backed a relatively wide (>200 ft) beach and dune system and was likely subject to at least occasional wave action and marine erosion over the last 200 years. The subject site must be considered a coastal bluff and the proposed development must be evaluated for consistency with Coastal Act Sections 30251 and 30253.

Coastal Act Section 30253 also requires that new development minimize risk, assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. The public sidewalk, and bicycle lane at the base of the bluff are currently closed, and the northbound lane of

the roadway is reduced in width due to the presence of landslide debris. The proposed repair is intended to stabilize the slope and arrest the movement of the subject landslide in order to repair North El Camino Real and allow safe passage of pedestrians, cyclists, and vehicles with the least possible impact to the natural bluffs above.

The proposed bluff stabilization is intended to re-open the sidewalk and bike lane by removing landslide debris, as well as to protect North El Camino Real, a major public access corridor, from near term future threat. In that sense, the proposed development would be consistent with those portions of Section 30253 that require that development minimize risk to life and property in areas of high geologic hazard; and assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. However, the project must also be consistent with other portions of Section 30253 that prohibit development that would in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The proposed development would alter the natural landform of the subject coastal bluff.

The proposed project involves construction of fifteen buried concrete buttresses, three hydraugers, and grading on a coastal bluff. Thus, the proposed development would alter a natural landform and constitutes a bluff protective device. While Section 30253 prohibits development that would in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs, Section 30235 of the Coastal Act requires that such construction be permitted, even when it alters natural shoreline processes, when required to protect existing structures and when it is designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Need for Stabilization

Regarding the subject landslide and proposed remediation, the applicant's geotechnical consultant states (LGC Geotechnical, Inc., 2/26/2020):

> "The landslide occurred on the only portion of the natural bluff that has not been subject to previous stabilization operations. This portion of natural bluff stretches for approximately 1 mile along the northbound side of North El Camino Real between Avenida Pico and Avenida Camino San Clemente. The index map (Figure 1 [Exhibit 5]) on the following page shows the approximate location of the landslide, as well as, the adjacent sections of the bluffs that have undergone stabilization operations. The section to the southeast of the landslide was repaired circa 1989 under an emergency permit by the City of San Clemente and the section to the northwest was repaired circa 1996 as part of a major stabilization operation associated with the residential retirement community of Colony Cove. Previously the stability of the subject section of natural bluff was analyzed and was considered unsafe based on a calculated factor of safety near 1.0 (Lawson, 2001). At that time, it was proposed that the natural bluffs be stabilized as part of the construction associated with the

> Marblehead Coastal Development located on top of the bluffs. However, this request for stabilization was ultimately not approved by the California Coastal Commission. As a result, the Marblehead Coastal development above was set back from the tops of the natural bluffs so that a potential failure would not impact the development. It should be noted that the subject landslide has not impacted the development above the bluff and the repair is not needed for stabilization or mitigation of improvements associated with the above development. The subject landslide has impacted the northbound pedestrian sidewalk, bike lane, and other improvements adjacent to North El Camino Real.
>
> The proposed repair is intended to stabilize the slope and arrest the movement of the subject landslide in order to repair North El Camino Real improvements and allow safe passage of pedestrians and vehicles with the least possible impact to the natural bluffs above. The proposed repair is not intended to bring the stability of the bluff to a geotechnical factor of safety of 1.5 or greater as typically required for new habitable structures. Utilization of a reduced factor of safety is sometimes used in areas where landslides do not present an immediate hazard to habitable structures or when repairing a landslide in already developed area. Achieving a factor of safety of 1.5 or greater would require major grading/engineering operations and the laying back of the slope similar to those operations that have been completed to both the northwest and southeast of the subject landslide. As part of the repair debris that forms the toe of the landslide will be removed where it has encroached and damaged the sidewalk and adjacent roadway. Immediately adjacent to the sidewalk the existing approximately 2-foot-high debris wall will be rebuilt and the area immediately above the sidewalk trimmed back to an approximate 2:1 (horizontal to vertical) slope inclination. The extent of removal and the proposed slope trimming are shown on Geotechnical Cross-Sections A-A', B-B', and C-C' on Sheet 1 of our attached geotechnical evaluation report (LGC Geotechnical, 2020a)."

The geotechnical consultant also states:

> "Other than the removal of landslide material that has encroached onto the sidewalk and North El Camino Real, the proposed repair will essentially leave the existing landslide in place with no significant change to the existing landform. In comparison, utilizing a traditional grading repair for stabilization would require the removal and placement of an earthen buttress keyed into bedrock for the entire length of the subject landslide. Lastly, the upper portion of the bluff will remain in its existing near vertical condition and will not be subject to grading or stabilization. Once the landslide mass has been stabilized, it is proposed that areas of loose soils and landslide debris be "track walked" for compaction and to close surface cracks. "Track walking" is the simple action of driving a track mounted piece of equipment back and forth across the area. "Track walking" generally compacts the upper 6-8 inches of material and will reduce erosion. The "track walking" will crush

> small amounts of surface vegetation, however, their root systems generally remain intact so that they continue to grow. In this case it is our opinion that "track walking" the landslide area will reduce future erosion and have negligible impact on existing vegetation. If this process is not preferred by the California Coastal Commission, it may be omitted since it is not required for geotechnical stability of the landslide."

And the geotechnical consultant further states:

> "The concrete trench buttresses will stabilize the landslide in the same way as a traditional earthen buttress. However, the concrete buttresses have the added benefit of requiring less excavation and placement since the strength of the concrete far surpasses that of compacted fill soils. In addition, it allows for a much smaller repair footprint and far less exporting and importing of materials."

Historical aerial photos show vehicles on North El Camino Real, dating from at least 1960.[2] The roadway is believed to have been constructed sometime in the 1930s. In this case, the proposed bluff protective device is intended to protect an existing, pre-Coastal public roadway, North El Camino Real, including the roadway, sidewalk and bike lane. North El Camino Real is a major public access corridor, located at the base of the failed bluff.

The Commission's staff geologist has visited the subject site, reviewed the proposed project plans, and considered the information submitted by the applicant's geotechnical consultant and concurs that the slope is probably vulnerable to further sliding, and that such slides could again affect public use along the sidewalk and road, and that the proposed project is a reasonable, relatively low-impact engineering solution, with minimal impacts to coastal resources. The Coastal Commission's staff engineer has also reviewed the proposed project plans and the geotechnical information and considers the buttresses a good option for stabilizing the site, as the buttresses will be effective while not greatly altering the visual character of the site (once the grading and installation are completed), and that adverse impacts to adjacent properties would not likely be expected. Furthermore, the proposed project will result in a relatively small area of alteration to the natural bluff area fronting the roadway.

Thus, both the applicant's geotechnical consultant and the Commission's technical staff agree that without the proposed project there is a risk of further slides, and that the proposed project is the least impactful way to achieve the required level of safety. Based upon the geotechnical information, the proposed bluff stabilization is necessary to protect existing development from further erosion. Section 30235 requires that bluff retaining walls shall be permitted when required to protect existing structures and when designed to mitigate adverse impacts on local shoreline sand supply. The proposed

[2] https://www.ocgis.com/ocpw/historicalimagery/index.html

project is required to protect continued, safe public use of the pre-Coastal North El Camino Real roadway, sidewalk, and bike path.

Shoreline Sand Supply

For a bluff protective device to comply with the requirements of Section 30235, it must be both necessary to protect existing development, and designed to eliminate or mitigate adverse impacts on local shoreline sand supply. In this case, because development is present between the toe of the bluff and the beach, impacts to natural shoreline sand supply are expected to be nonexistent or insignificant. The only way that the proposed stabilization would start to be an active barrier to the inland migration of the beach (i.e., with rising sea level) would be if the mobile home park, its revetment, the railroad, and North El Camino Real were all removed. No such removal has been proposed or is foreseeable. Even assuming that marine erosion were to resume at this site at some point in the future, the discontinuous nature of the proposed buttresses would make them rather ineffective at protecting the bluff against wave attack, and thus the sand supply impact of the project would likely be very small. Therefore, the proposed bluff stabilization is consistent with the requirements of Coastal Act Section 30235 regarding impacts on local shoreline sand supply.

Alternatives

The Commission must also consider whether there are alternatives to a proposed project that would result in lesser impacts to coastal resources. According the geotechnical project consultant's report (LGC Geotechnical, Inc., 2/26/2020), the proposed project, including construction of fifteen concrete buttresses, three hydraugers, and grading, is intended to do the following:

> "The subject repair is intended to stabilize the recent landslide that occurred along El Camino Real to such a degree that the debris that has fallen onto the sidewalk and the shoulder of El Camino Real can be removed, the preexisting improvements [North El Camino Real roadway, sidewalk, and bike lane] repaired, and the sidewalk and street shoulder [bike lane] re-opened for the general public. The proposed repair is considered to have the least possible environmental impact and the least possible landform alteration to the bluff while allowing the sidewalk and roadway to be repaired and re-opened. The proposed repair will not repair the upper portions of the bluff which will remain in their existing condition and subject to failures in the future. The portion of the slope which will be repaired will be increased in stability from a factor of safety of 1.0 to that of approximately 1.25. This increase in stability is considered a reasonable and appropriate level of repair, especially considering the adjacent areas of the unrepaired sections of the bluff have factors of safety close to 1.0. It should be noted that there is no code requirement for landslide repairs that requires a factor of safety of 1.5 or greater when no new development is proposed. The proposed remediation simply allows for the safe opening of the portions of closed sidewalk and shoulder [bike lane] of El Camino Real and will significantly reduce the potential, but not entirely eliminate,

future bluff failures in this area. The upper portion of the bluff is still considered to have a very high potential of future failure and may temporarily impact El Camino Real. However, this future failed material is anticipated to be removed with relative ease."

Regarding the proposed alternative, the geotechnical consultant further states:

"The concrete trench buttresses will stabilize the landslide in the same way as a traditional earthen buttress. However, the concrete buttresses have the added benefit of requiring less excavation and placement since the strength of the concrete far surpasses that of compacted fill soils. In addition, it allows for a much smaller repair footprint and far less exporting and importing of materials."

Alternatives to the proposed method of bluff stabilization were considered, including:

Repair of the landslide by laying back the entire height of the bluff to a slope angle of 2:1 (horizontal to vertical) and stabilizing the slope with a traditional earthen buttress. This repair was eliminated from choice since it has the largest landform alteration, the largest amount of import and export of material, the largest impact to existing biological resources, and was previously refused by the Coastal Commission during consideration of the Marblehead project (5-03-013).

Construction of a large caisson supported debris wall/landslide stabilization wall at the toe of slope. This repair was eliminated due to size of the wall that would need to be constructed at the toe of slope. The wall was estimated to be approximately 25-30 feet high at the toe of slope, such that the existing landslide would be stabilized and future bluff failures higher on the slope would not overtop the wall for the foreseeable future. The wall would also be a large landform alteration.

A combination of debris wall, slope layback, landslide buttressing as described above. This option was eliminated because the extent of the impact would be similar to the slope layback and stabilization approach, although the wall would be shorter due to the lessened potential for debris accumulation. However, it would still be a significant height.

No Repair. This was eliminated because it would mean North El Camino Real would continue to be impacted, debris and water would continue to flow onto the street in periods of rain, the sidewalk would not be repaired, and pedestrians would not be able to walk along the northbound side of the street. Maintenance would be relatively constant with a large permanent negative impact to pedestrian access in the coastal zone as well as intermittent impact to traffic along North El Camino Real.

All of the proposed alternatives (except the no repair alternative) would result in significantly greater adverse impacts than the proposed alternative, resulting in either greater landform alteration or greater impacts to scenic views, or both. The proposed alternative appears to be the least landform alteration necessary to protect the threatened development and public use of that development, and to address, to some degree, future sliding. In addition, the proposed repair will not be visible once completed, and extends only within the area of the current landslide (estimated to be roughly 170 feet in width), not across the entire approximately 500-foot width of the unstabilized bluffs.

The no repair alternative is also not preferable because the adverse impacts along North El Camino Real would remain unresolved and would also continue into the future, interfering with public use of North El Camino Real and the pedestrians, bicyclists and drivers that use it. Limiting the project to removal of the landslide debris only from the roadway and sidewalk would not stabilize the landslide materials and would leave the area vulnerable to further slide movement and access disruptions. This would not effectively address the problem and also raises questions regarding public safety.

The alternatives have been reviewed by the Commission staff geologist and engineer. Both concur that the proposed project is the preferred alternative in that it is the least work necessary to protect existing development and the public users of that development. Based upon the geotechnical information provided, it appears that the proposed bluff stabilization project is the minimum-sized development necessary to protect the existing development and the public access that development provides. And, once completed, it is the least visually intrusive alternative.

It should be noted that the proposed factor of safety is less than the typical 1.5 factor of safety. The Geotechnical consultant determined this factor of safety by averaging the factor of safety over the repair site, including the higher factor of safety at the buttress locations and the lower factor of safety in the area between buttresses. Regarding this, the Geotechnical consultant states (LGC Geotechnical, 32/25/2020):

> “Areas where concrete buttresses are installed (approximately 1/3rd of the landslide) will have a factor of safety of 1.51 while the adjacent areas between the concrete buttresses (approximately 2/3rd of the landslide) will have a factor of safety of 1.23. As previously stated, it is our opinion that the factor of safety for the entire landslide may be taken as the weighted average of these factor of safeties. Therefore, the overall stability of the landslide post repair will be (2/3 * 1.23 + 1/3 * 1.51) = **1.32**. Our stability analyses utilized the same slope geometry/profile along A-A’ with and without the concrete buttress as a resisting element.”

The Commission’s coastal engineer has reviewed and concurs with the geotechnical consultant’s general factor of safety determination. However, the Commission’s coastal engineer has indicated that it is important that this stabilization project not be relied upon in future analysis of off-site safety, and recommends that any future maintenance

be limited solely to activities necessary to protect North El Camino Real. This would prevent the proposed stabilization project from being used to justify future development that would otherwise not be consistent with Coastal Act Sections 30253 and/or 30251. **Special Condition 2** is imposed which states that future development involving the subject bluff stabilization project will require a coastal development permit. As conditioned, the proposed development would be consistent with Coastal Act Sections 30235, 30253, and 30251.

D. Environmentally Sensitive Habitat Area

Section 30107.5 Environmentally Sensitive Area

> "Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Section 30240 of the Coastal Act states that:

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

Sensitive Species

The proposed landslide remediation project will be located within an area recognized as environmentally sensitive habitat area under CDP 5-03-013, due to the presence of southern coastal bluff scrub habitat. No recent vegetation survey was conducted prior to the landslide at the subject site. The 2014 Marblehead Annual Monitoring Report (Feb. 2015), mapped coastal bluff scrub, Coulter's saltbush and Blochman's dudleya in the immediate project vicinity and possibly within the project site itself. Based on recent (2020) Google Earth photos of the site, it appears the landslide area is beginning to be recolonized, though it is difficult to discern the specific plant types.

Southern coastal bluff scrub is a very rare habitat that has a rarity ranking of G1 S1.1[3] and therefore rises to the level of ESHA or environmentally sensitive habitat because it

[3] The global rank (G-rank) is a reflection of the overall status of plant, animal, or habitat throughout its global range. G1 = Critically Imperiled—At very high risk of extinction due to extreme rarity (often 5 or fewer populations or locations), very steep declines, or other factors. The state rank (S-rank) is assigned

is rare and is easily disturbed or degraded by human activities and development such as landscaping and grading. Blochman's dudleya (Dudleya blochmaniae ssp. blochmaniea) is a sensitive upland plant species known to occur along the Marblehead bluffs, including within the proposed project vicinity. Blochman's dudleya is most commonly found in coastal bluff scrub habitat. Blochman's dudleya is a perennial succulent plant species found on coastal bluffs from San Luis Obispo County, California, into the Baja California peninsula in Mexico. The plant is typically found on the margin of open areas on coastal bluffs and usually in association with other native plants. The California Native Plant Society (CNPS) has placed Dudleya blochmaniae on List 1B of their plant inventory indicating that the species is rare throughout its range and has been judged by CNPS to be "…vulnerable under present circumstances or to have a high potential for becoming so because of their limited or vulnerable habitat, their low numbers of individuals per population (even though they may be wide ranging), or their limited number of populations." Although Blochman's dudleya was mapped in the immediate project vicinity in 2014 (**Exhibit 9**), it is not clear whether any Blochman's dudleya were present immediately prior to the slide or whether impacts occurred due to the slide. In any case, impacts that may have occurred were due to the natural effects of bluff retreat (i.e. the landslide), and were not caused by the proposed project.

The coastal California gnatcatcher (Polioptila californica californica) was listed as threatened by the USFWS on March 25, 1993. The coastal California gnatcatcher, a small gray songbird, is a resident of scrub dominated plant communities from southern Ventura County southward through Los Angeles, Orange, Riverside, San Bernardino, and San Diego Counties, in California and into Baja California, Mexico. It is threatened in large part due to the loss of an estimated ninety percent of coastal sage scrub habitat from development. Remnant patches have also been hit hard by unnaturally frequent wildfire. Preventing further loss of this bird and its habitat has been recognized as important in past Commission actions, including its action on CDP 5-03-013.

The presence of gnatcatchers was recognized at the site under CDP 5-03-013, which also imposed measures to protect them, including the preservation and restoration of its habitat. More recently, required surveys for the gnatcatcher were conducted within the Marblehead restoration area on March 20 and 26, 2019, as well as in 2018 (**Exhibit 8**). The results of these surveys indicate that gnatcatchers occupy the scrub habitats within the habitat conservation areas of the Marblehead property generally, including the Marblehead bluffs. These recent surveys reveal that gnatcatchers have nested along the bluffs and bluff tops in the project vicinity. However, no nests have been mapped within the landslide area itself. The breeding season of the coastal California

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much the same way as the global rank, but state ranks refer to the imperilment status only within California's state boundaries. S1 = Critically Imperiled—Critically imperiled in the state because of extreme rarity (often 5 or fewer populations or locations) or because of factor(s) such as very steep declines making it especially vulnerable to extirpation from the state.

gnatcatcher extends from about February 15 through August 30, with the peak of nesting activity occurring from mid-March through mid-May.

In addition, a number of raptor species have been observed over the years at the larger Marblehead site. Raptor sightings have included northern harriers, Cooper's hawks, red-tailed hawks, and American kestrels. In April 2000, Commission staff observed a white-tailed kite foraging and a loggerhead shrike perched on a pine snag. Also, a winter period bird survey submitted during the Marblehead CDP review (circa 2003) documented the presence of sharp-shinned hawk, red-shouldered hawk, red-tailed hawk, American kestrel, and burrowing owl. However, during that earlier CDP review, raptor nesting was not observed. This may have been due to a lack of tall trees for raptor perching and nesting on the project site. Regardless, it remains that the overall Marblehead open space is utilized by raptors as foraging area. Various past biological surveys of the Marblehead open space have documented use by a variety of raptor species. The preservation of a significant amount of open space at the Marblehead site was required to preserve and protect use of the area by sensitive wildlife, including gnatcatchers and raptors. It is important that the proposed bluff stabilization project not interfere with continued use of the site by sensitive wildlife.

Nesting Bird Surveys

Due to the proximity of known past gnatcatcher nests and the extent of habitat suitable for gnatcatcher nests in the project vicinity, the area supporting this threatened species would be considered ESHA. Section 30240 requires that environmentally sensitive habitat areas be protected against any significant disruption of habitat values. It is important to assure that the proposed development not interfere with potential gnatcatcher nesting ESHA. In addition, protection of raptor use of the area must also be assured to protect against significant disruption as required by Section 30240. In order to prevent interference with gnatcatcher, raptor or other breeding birds, certain steps must be incorporated into the proposed project. These steps include that, if any work is conducted during the bird breeding season (February 15 through August 30), a nesting bird survey, conducted by a qualified biologist or ecological resources specialist, must be performed prior to any construction activities. And if any active nests are discovered, work may only occur farther than 300 feet from any active songbird nest and farther than 500 feet from any active raptor nest. In addition, decibel levels must be kept at or below a peak of 65 dB at the nest(s) site(s). Additionally, if construction activities occur during the breeding season, the work must be monitored by a qualified biologist or ecological resources specialist. These measures are necessary to find the proposed development consistent with Section 30240's requirement to protect against significant disruption of ESHA by avoiding impacts to sensitive nesting birds, and generally sensitive bird use of the area, particularly with regard to gnatcatchers and raptors. **Special Condition 1** imposes these requirements which are necessary to assure that adverse impacts to the threatened coastal California gnatcatcher, and to raptors and other species are avoided.

Re-vegetation

The approved final Habitat Management Plan required by CDP 5-03-013, dated 3/3/2006, regarding the area that includes the proposed bluff remediation, states:

> "On the remaining unstabilized slope adjacent to El Camino Real, enhancement and restoration activities will be limited to actions consistent with public safety relative to the unstable condition of the slope above the roadway. Specifically, this area will be subject to hydroseeding with no irrigation and removal of non-native species in a manner that does not exhibit potential to de-stabilize the slope (e.g., no work will be performed on the steeper portions of the slope and the roots of non-native trees and shrubs will be left in place)."

Thus, under CDP 5-03-013 and the approved HMP, the subject area was recognized as unstable, and habitat enhancement and restoration were limited to hydroseeding, with no work performed on the steeper portions of the slope. Even so, the project site would still be considered ESHA due the plants that have been known to be present there and because the area is recognized and required to be maintained as such in the approved HMP. As proposed, the project includes hydroseeding the site once landslide remediation construction and earth work is complete, which is consistent with the approved HMP for the conservation easement area. The proposed hydroseed list (**Exhibit 3**) includes only plant seeds native to San Clemente coastal bluff scrub habitat, and, more specifically, those plants that have performed well on the manufactured bluff slopes south of the site. The manager of the Marblehead habitat conservation easement responsible for maintaining the requirements of the approved HMP (Center for Natural Lands Management, CNLM), has reviewed the proposed hydroseed mix and indicated that "the hydroseed mix seems appropriate for the area based on what has worked on the adjacent manufactured slopes to the south." In addition, the applicant proposes, prior to grading, to remove all native brush plants with larger than a 12-inch canopy that survived or have developed within the landslide debris, temporarily store them, and replant them in the approximate location from which they were removed once project earth work is complete. Irrigation is specifically not proposed at the site, consistent with the approved HMP for the conservation easement area. The Commission's staff ecologist has reviewed the proposed hydroseed seed mix and the preservation and replanting of native plants currently present within the project site. Based on review of plants that are present on the landslide mass and/or within the project vicinity, the staff ecologist has identified two additional types of native plants to add to the hydroseed list: lemonade berry and California croton. Thus, it is recommended that seeds of these native plants be added to the current hydroseed seed mix. Expanding the proposed hydroseed mix to include native plant seeds that are currently present or near the site increases the likelihood of re-vegetation success.

Typically, projects that involve re-vegetating a habitat area within a conservation easement would require a formal restoration plan, including rigorous monitoring and success criteria. However, in this case, a traditional formal restoration plan is not required, for a number of reasons. First, the impact to whatever habitat was present at the site was caused by the natural process of bluff retreat (landslide). That this natural,

unstabilized bluff would retreat was recognized in the Commission's action on the Marblehead project (5-03-013). In that action, it was recognized and expected that the bluff would retreat if left unstabilized, and that outcome was preferred as necessary to retain the natural processes and appearance of the bluff, as required by Coastal Act Sections 30251 and 30253. As cited above, the approved HMP for CDP 5-03-013 recognized that "actions consistent with public safety relative to the unstable condition of the slope" were expected. Under that formal HMP, restoration activities on this bluff were limited to hydroseeding and removal on non-native species in a manner that will not destabilize the slope.

Moreover, the currently proposed actions were anticipated in the Commission action that created the conservation easement (CDP 5-03-013). Special condition 1.A of CDP 5-03-013 allows erosion control and repair, such as the proposed project, within the conservation easement. Additionally, the geologic makeup of the bluff and landslide materials poses challenges for robust native plant growth. The bluff and landslide debris are comprised primarily of Capistrano Formation siltstone, which is nutrient poor with a high clay and salt content, in which it is difficult for plants to establish. Also, it is expected that the bluff in this area will continue to retreat, particularly the nearly vertical bluff above the subject slide area. If this natural process were to occur, the re-vegetation would again be impacted. Furthermore, the impacts to whatever habitat has re-established on the landslide debris will be due to the steps necessary to protect existing development (the public roadway) per Coastal Act Sections 30235 and 30253. These stabilization actions may delay native plant re-establishment, but do not preclude it. For these reasons, the proposed bluff stabilization project can be distinguished from other landform alteration projects. And, for these reasons, a traditional formal restoration plan has not been required.

Nevertheless, there are some additional measures that could be incorporated into the proposed re-vegetation that may improve the likelihood of success. Reducing the amount of erosion would assist both with stabilizing the site as well as allowing fledgling plants to establish. Measures that would assist with decreasing the degree of future erosion include placement of straw wattles, straw plugs, jute erosion control matting or similar erosion control devices that do not require significant disturbance to install and that dissipate on their own over time. Providing a minimal level of compaction would also be useful in assisting successful plant establishment. This would involve driving a track-mounted vehicle back and forth one or two times over the graded area upon completion of installation of the buttresses and hydraugers, and prior to re-vegetation. In addition, the applicant could track the re-vegetation over time to determine whether native plants are successfully establishing. In order to document the status of re-vegetation success, periodic photos of the revegetation area over the course of three years would be useful in understanding whether the revegetation is succeeding. Typical success criteria for formal restoration plans is anywhere from 70 to 85% cover for native scrub habitat within three to five years. However, due to the soil type and grade at the site, this would be an unrealistic goal for the subject site. Prior to the landslide,

vegetation did not reach high cover at this site for several reasons including steepness of the slope and soil sluffing and slippage. Instead, given that the slope will be laid back and that native species in the hydroseed mix are those exhibiting growth in the area, 50% native cover over a three-year period is a realistic goal. If the re-vegetation does not reach 50% native cover within three years, the status of re-vegetation should be revisited. One measure to consider is whether reducing the degree of compaction of the soils might assist in native plant establishment and success. Another might be to adjust the mix of native plant species to favor those thriving at the site. Also, the appropriate percent cover criteria might be reconsidered. Or, it may be that additional measures not now apparent may be appropriate to apply to the site in the future.

In the event the proposed revegetation is not successful after three years, **Special Condition No. 3** requires the applicant to propose measures, such as the ones described above, to reach a native plant cover of 50%. The revised approach shall be presented to the Executive Director for approval and subsequent implementation. This condition will protect against significant disruptions on the ESHA, as required by Section 30240.

However, within ESHA, Section 30240 allows only uses that are dependent upon the ESHA resources. The proposed landslide stabilization is not dependent upon the ESHA resources, though the revegetation aspect of the project is an allowable use within the ESHA. While Section 30240 prohibits development in ESHA that is not dependent upon it, Section 30235 of the Coastal Act requires that construction of a bluff protection device be permitted, even if it is inconsistent with the requirements of 30240, when it is required to serve coastal-dependent uses or to protect existing structures in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. As discussed previously, the project is necessary to protect this key access road, bike lane, and sidewalk, repair a landslide, and prevent future erosion that could impair coastal access. The project will not have significant impacts on local shoreline sand supply, as discussed previously. As described above, Special Condition 1 will maximize protection of bird nesting and bird use of the area, including protected gnatcatchers and raptors. Special Condition No. 3 will increase the probability of revegetation success. With imposition of Special Conditions Nos. 1 and 3, adverse impacts to ESHA will be mitigated.

Wetland A

CDP 5-03-013 and the related approved HMP also recognize the presence of a wetland in the bluff top above the landslide area (Wetland A). Regarding this wetland, the approved HMP states:

> “The two small alkali wetlands in the **southwestern** and southeastern corners of the site, (**Wetlands A** & G respectively, See Ex. 4), are both supported by subsurface migration of water toward the slope adjacent to El Camino Real. The wetland in Drainage A is at the top the slope within a very small drainage area. It is

> not clear when these wetlands formed. For the wetland in Drainage A (**Wetland A**), it is quite likely that increased groundwater contributions from irrigation in the adjacent Colony Cove development promoted establishment and provides continued hydrologic support." [Emphasis added]

Regarding these alkali wetlands, the approved HMP further states (under the heading Hydrological Contributions to Alkali Wetlands in the Canyon Bottoms):

> "The groundwater supported alkali wetlands are similar to other ground water supported wetlands in southern Orange County. As noted in the existing conditions the groundwater supporting these wetlands is not a high ground water table or aquifer; but rather, is a product of precipitation and off-site dry weather flows that percolate into the soil and move in subsurface patterns, evident as shallow subsurface flows or as discharging groundwater.
>
> Consequently, it is important to assure that these existing hydrological conditions are largely maintained or mimicked. The project has been designed to achieve this goal by achieving the following objectives: (1) the likely paths of shallow subsurface flow into the canyons, above the alkali wetlands, are either maintained or functionally replicated; (2) the amount of recharge is not substantially decreased within the respective watershed areas in the post-project condition; (3) persistent non-storm related low flows, originating off-site, that contribute to the groundwater recharge would not be substantially diminished in post-project conditions; (4) the quality and character of the groundwater and surface water is not altered in a manner that would have an adverse effect on the wetlands. This is more fully discussed below."

In addition, regarding groundwater flow and maintaining wetlands, the Revised Findings staff report for CDP 5-03-013 (5/22/2003) state:

> "The analyses submitted contain several recommendations that will help to provide flow paths for ground water. These include: 1) in areas where cuts are to extend into the Capistrano Formation, the Capistrano Formation will be overexcavated to a depth of five feet. The base of the excavation will be graded to direct groundwater toward the canyons, and the lower one foot of the excavation will be filled with sand or gravel derived from the marine terrace deposits. Compacted fills suitable for foundations will then be placed above the sand and gravel. This sand and gravel will provide a permeable blanket beneath the compacted fills, to allow for groundwater movement; 2) a recharge trench will be excavated at the lowermost end of the excavation, in order to provide a reservoir and diffuse source for ground water discharge to the canyons.; 3) the subterranean cutoff wall that diverts water away from the unstable portion of the bluff overlooking El Camino Real at the northwestern edge of the property is to be pierced by a solid PVC pipe, equipped with a valve, to supply water to **Wetland Area A**. These recommendations are

> important to maintain ground water flow to the wetlands at the site, and through Special Conditions 8.B, 18 and 19[4] the Commission requires the applicant to implement these recommendations in the development of the project site." [Emphasis added.]

Section 30233 of the Coastal Act limits dredge of wetlands to certain, specific uses. If the proposed project impacted an existing wetland, it would need to be one of those uses. Landslide stabilization is not one of those uses. As a recognized wetland afforded protection under Section 30233, and recognized in the Commission action on CDP 5-03-013, it is important that the proposed landslide remediation project not adversely impact Wetland A, located on the bluff top above the project area. The proposed project includes the installation of three hydraugers to prevent the buildup of groundwater (hydrostatic) pressure within the landslide mass. Hydraugers are essentially slotted PVC pipes that are inserted into an open, slightly inclined, horizontal drill hole that penetrates the slide mass to drain groundwater. Because the proposed hydraugers are intended to drain groundwater, the question of whether or not they would also drain (i.e. dredge) or otherwise adversely impact Wetland A is raised.

The geotechnical consultant responded to this question (email, 6/11/2020) as follows:

> "There is absolutely no possible impact of the proposed hydraugers on wetland A. Wetland A is fed by both groundwater and a drain pipe above it and is located in the terrace (sand and silt) deposit that sit on top of the Capistrano formation. The hydraugers are located some 60 feet below and about 100 feet to the south in the landslide material. These two units are completely separate and do not have hydraulic conductivity. In other words lowering the groundwater in the landslide has no impact on the wetland since they are not connected. They are not connected since they are separated by the effectively impermeable Capistrano Formation. Wetland A is a perched groundwater condition. I have attached the geotechnical cross-sections and map from our report showing where the wetland and hydraugers are and this should be easy to see. Perhaps an easy analogy you could give to anyone who asks is wetland A is a bucket of water on the top shelf of a set of shelves. The landslide is a separate bucket on the bottom shelf. If the wetland A bucket has a leak it may drip water into the landslide bucket, if wetland A bucket overflows it may also flow water into the landslide bucket below. But if you drain the landslide bucket on the bottom shelf it has no impact on the water in the wetland bucket on the top shelf since they are not hydraulically connected."

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[4] CDP 5-03-013 Special Condition 8.B required all project grading and construction to comply with the HMP; Special Condition 18 required revised plans to conform with all special conditions and that the applicant carry out the final revised project plans as approved; Special Condition 19 required conformance of design and construction plans to the project geotechnical report.

This analysis was anticipated by, and reviewed and accepted by the Coastal Commission staff geologist. In addition, the Commission's staff ecologist has considered whether the proposed development will have any adverse impact on Wetland A, and has also accepted that the proposed project, including the use of hydraugers, will have no impact on Wetland A. Upslope groundwater will continue to feed Wetland A, regardless of the proposed landslide remediation project, with or without the hydraugers. Meanwhile, the hydraugers will reduce the amount of stabilization (number of concrete buttresses) needed to arrest the landslide movement and will provide a convenient way to reduce the current amount of free flowing water from the slide mass onto the sidewalk at the toe of slope. That is, the hydraugers will not have any impact on Wetland A, but will allow the scope of the remediation to be minimized (fewer concrete buttresses). The proposed development will have no impact on Wetland A, and therefore raises no issue with regard to consistency with Section 30233.

E. Visual Resources

Section 30251 of the Coastal Act states:

> The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The coastal bluff to be stabilized is located along the North El Camino Real public roadway. The 75 to 85 feet tall bluffs are visible to the general public. Natural bluffs such as the subject bluff constitute scenic views which are protected by Section 30251. It is important to assure that the proposed development will not cause adverse impacts to scenic public views. The subject bluff stabilization project as proposed includes measures to address potential adverse visual impacts.

Once the proposed stabilization project is constructed, it will be covered with native soils and revegetated with vegetation native to San Clemente coastal bluffs. The concrete buttresses will not be visible. The bluff will be restored, as near as possible, to its natural appearance. The upper bluff, above this project, is not a part of the proposed project and will remain unchanged. **Special Condition No. 3** requires the applicant to submit a revegetation plan to improve the likelihood of the revegetation of the site with native plants will be successful. As conditioned, the project is consistent with Section 30251 regarding protection of public views.

F. Public Access

Section 30210 of the Coastal Act states:

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

Coastal Act Section 30210 requires that maximum public access and recreational opportunities be provided, and that development not interfere with the public's right to access the Coast. The City's certified LUP also includes similar policies that promote public access. North El Camino Real is a major coastal access route, linking the upcoast and downcoast segments of Pacific Coast Highway.

Although the subject site is not located between the first public road and the sea, it is adjacent to the first public road, North El Camino Real. The subject site is located on the inland/northbound side of North El Camino Real. On the other side of North El Camino Real (southbound) there is a bicycle and pedestrian path separated from vehicular traffic on southbound North El Camino Real by a raised and landscaped median. However, there is no safe pedestrian or bicycle crossing on North El Camino Real between Avenida Estacion and Camino San Clemente, a distance of approximately 3,600 feet (a little over half a mile).

The sidewalk and bike lane at the site also link the inland public trails of the Marblehead development to the nearest safe pedestrian/bicycle crossings and thence to the nearest public beaches. North Beach is accessed from the crossing at Avenida Estacion, approximately 2,500 feet to the south. Poche Beach is accessed from the crossing at Camino San Clemente or at Camino Capistrano. Poche Beach is approximately 1,600 feet to the north. Thus, especially for those using the Marblehead/Sea Summit trails above, the sidewalk/bike lane on the northbound (subject site) side of North El Camino Real provides necessary safe public coastal access connection to and from the local beaches to the north (Poche Beach) and south (North Beach). (**Exhibit 1**).

The protective work is necessary to protect the existing El Camino Real roadway, sidewalk, and bike lane, and members of the public walking, riding, or driving there. The goal of the project is to safely re-open the sidewalk and bike lane and to minimize potential future impacts to those features. Doing so provides a significant public access benefit.

Public access during construction must also be considered in order to make the project consistent with Section 30210's mandate to maximize public access. Currently, due to the landslide and slide debris, the sidewalk and bike lane are closed on the northbound side (at the landslide). The applicant has proposed the following measures to be implemented during construction:

> "Traffic control will be provided in accordance with the Working Area Traffic Control Handbook (WATCH). The traffic control will essentially warn pedestrians, bicyclists, and vehicles of closures and road work. Currently the northbound sidewalk and bike lane along North El Camino Real are closed and separated from traffic with temporary concrete barrier rails. It is proposed that the barrier rails be extended an additional 125-130 feet on the northern end of the work area. This will allow the contractor area to work outside of the North El Camino Real traffic lanes. In general, the proposed traffic control and repair operations will make no meaningful change to the present-day conditions at the site. The repair does not anticipate any further encroachment into El Camino Real than that exists today. No additional detours are anticipated and no change to pedestrian, bike, or traffic patterns are anticipated than exist today."

The proposed project will re-open the public sidewalk and bike lane. These connect inland areas with the nearest public beaches, North Beach and Poche Beach. Impacts to public access during construction will be status quo with the current situation and will not create adverse impacts to public access. The project, overall, will be beneficial to public access. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Section 30210 of the Coastal Act and regarding maximizing public access.

G. Water Quality

Section 30230 of the Coastal Act states:

> Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

> The biological productivity and 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.

The proposed development has the potential for construction discharge of polluted runoff from the project site into the municipal storm drain, and thence, potentially, into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be discharged into coastal waters could result in an adverse impact on the marine environment.

The applicant is proposing measures to address water quality concerns, including: limiting work to outside the rainy season (work only between April 15 and October 15); providing track out control/mitigation (rumble plates, crushed rock, etc.) to prevent tracking of mud and debris by construction vehicles onto public streets which could then be directed into the storm drain system; regular street sweeping; and protection of existing storm drain inlets with filter fabric and gravel bags.

To further protect water quality, the Commission imposes **Special Condition No. 4**, which identifies additional construction related measures to be incorporated into the project during construction. These measures include methods for the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters. By incorporating the water quality protection measures into the proposed development, as conditioned, the project minimizes the effect of construction activities on the marine environment. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act and related LUP policies regarding the protection of water quality.

H. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit for development in an area with no certified Local Coastal Program (“LCP”) only if the project will not prejudice the ability of the local government having jurisdiction 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 August 2, 2019, a comprehensive update to the City’s LUP was effectively certified by the Coastal Commission. The City is currently also working on submittal of an Implementation Plan to complete the LCP; however, at this time the City has no certified LCP.

As conditioned, the proposed development is consistent with the policies contained in the certified Land Use Plan regarding hazards, habitat, public views, and environmental protection, and with the policies in Chapter 3 of the Coastal Act. Therefore, approval of

the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

I. CEQA

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

The City of San Clemente is the lead agency responsible for certifying that the proposed project is in conformance with CEQA. The City determined that in accordance with CEQA, the project is Categorically Exempt from Provisions of CEQA, citing CEQA Guidelines section 15302, Class 2. However, Section 13096(a) of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of CEQA.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, in the form of special conditions, require: 1) protection of sensitive bird species; 2) limiting future maintenance of the bluff stabilization project only to continued protection of North El Camino Real; 3) carrying out the proposed revegetation plan as proposed; and, 4) implementation of water quality measures, drainage plan, and landscaping as proposed.

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and complies with the applicable requirements of the Coastal Act to conform to CEQA.

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

1. Coastal Development Permit Amendment Application No. 5-19-1033 and associated file documents.
2. Coastal Development Permit No. 5-03-013, as amended, and associated file documents.
3. Final Marblehead Coastal Project Habitat Management Plan, 3/3/2006.
4. Geotechnical Evaluation for Landslide Located Adjacent to North El Camino Real, Approximately 3,300 Feet North of Avenida Pico, San Clemente, California, LGC Geotechnical, Inc., 2/25/2020.
5. Response to Report Review Questions by California Coastal Commission Staff Relating to CDP Application No. 5-19-1033, LGC Geotechnical, Inc., 2/26/2020.
6. City of San Clemente Certified Land Use Plan.
7. County of Orange Historical Aerial Imagery, 1938-1996. Available at: https://www.ocgis.com/ocpw/historicalimagery/index.html
8. U.S. Coast and Geodetic Survey, 1886. Coast Topography Between San Juan Capistrano and San Diego, Section X (T-1738). Available online at: http://www.caltsheets.org/socal/
9. U.S. Geological Survey (USGS) historical topographic maps, various scales and years, San Clemente and Capistrano quadrangles. Available online at: https://ngmdb.usgs.gov/topoview/viewer/#15/33.4188/-117.6185.