

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: CONSENT CALENDAR

Application No.: 6-20-0279

Applicant: Ocean Ranch Estates, LLC

Agent: Justin Suiter, Pasco Laret Suiter & Associates

Location: 512, 516, 524, and 538 South Nardo Avenue, Solana Beach, San Diego County (APNs: 298-121-24, -25, -55, -56)

Project Description: Demolish all existing structures including greenhouses and associated structures, agricultural fields, and four single-family residences; subdivide 4 existing lots into 8 residential lots; grading; install utilities; and construct street and drainage improvements on an approximately 4.2-acre site.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The proposed project consists of removal of all structures and uses on four adjacent lots including demolition of nine greenhouses, storage sheds, a vacant building, a cold storage trailer, four single family residences, row crops, and an existing private access road; and subdivision of the four parcels into a total of eight parcels. Grading, construction of street and drainage improvements, and installation of utility connections will prepare the eight lots for future infill residential development.

The subject site is a 4.19-acre lot located approximately 0.6 miles inland of the coast in the City of Solana Beach. The site has traditionally been used for both residential and agricultural uses, and active farming on the site now consists of row farming of flowers. The site does not contain prime agricultural lands and is designated Low-Residential (LR-3) in the City of Solana Beach's certified Land Use Plan (LUP); thus, the land use has been planned and designated for residential development. The site is surrounded on all four sides by residential uses.

The Coastal Act allows for prime and non-prime agricultural lands, either on the urban periphery or surrounded by urban uses, to be converted if the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development. Other non-prime lands suitable for agricultural uses may be converted only if conversion would preserve prime agricultural land, concentrate development and be compatible with continued agricultural use on surrounding lands.

Agricultural activities have taken place at the site prior to 1928 and through the present. However, the landowner and farmer of the lot has indicated that it is not economically feasible to continue the agricultural use at this site, as the site is required to pay residential rates for water and is too expensive to be profitable. The removal of agricultural use on the site will not adversely impact any prime agriculture land or other viable agriculture operations in the vicinity. The subject project is for infill development within a residential community that will concentrate development in an appropriate location where public services are located. Additionally, the project will result in an increase in housing opportunities in Solana Beach by providing for the construction of 8 residences consistent with the LR-3 zone.

The Commission's water quality technical staff have worked with the applicant to ensure that the proposed bioretention basins and biofiltration basin constructed at the site will protect water quality. **Special Conditions 2, 3, and 4** require implementation of construction and post-construction water quality Best Management Practices, and proper design and maintenance of the bioretention and biofiltration basins.

Biological impacts may also occur as a result of the project. **Special Condition 5** requires the applicant to conduct bird nesting surveys prior to any necessary construction activities during nesting season to avoid potential impacts to sensitive species. The site also contains approximately 0.65 acres of steep slopes in excess of 25% grade, approximately 45 feet high, generally described as the eastern portion of the site. No development is proposed within the steep slope areas and **Special Condition 8** requires that the steep slopes on the site be preserved in an Open Space Deed Restriction.

Four historic features consisting of decorative stonework from the 1930s will remain undisturbed within the open space deed restricted area required by **Special Condition 8**. No cultural resources were identified on the site or in the immediate vicinity, however **Special Condition 6** requires submission of a cultural resources treatment and

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monitoring plan that includes archaeological and Native American monitors during all grading operations and a process for significance testing if any resources are discovered during construction to ensure no impacts to cultural resources. Finally, **Special Condition 1** requires final plans to confirm the proposed work area and all components of the project and **Special Condition 7** requires recordation of a deed restriction against the property that imposes the conditions of the permit for the purpose of providing notice to future property owners. As conditioned, the proposed project will be consistent with the Chapter 3 policies of the Coastal Act, and no adverse impacts to coastal resources are anticipated.

Commission staff recommends **approval** of coastal development permit application 6-20-0279 as conditioned. The motion and resolution are on Page 5. The standard of review is the Chapter 3 policies of the Coastal Act with the City of Solana Beach certified LUP used as guidance.

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I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** the coastal development permit applications included on the consent calendar in accordance with the staff recommendation.

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

1. Final Plans.

- a. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, final site plans for the proposed development that have first been approved by the City of Solana Beach. Said plans shall be in substantial conformance with the plans submitted with this application by Pasco Laret Suiter & Associates dated July 16, 2021.
- b. The permittee shall undertake development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Construction Pollution Prevention Plan (CPPP).

- a. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, two (2) sets of a final CPPP prepared and certified by a qualified licensed professional that, at a minimum, includes the following:

Best-Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and runoff of construction-related chemicals, materials, sediment, or other pollutants associated with demolition or construction activity shall be implemented prior to the onset of such activity. Such measures shall include:

- i. No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, coastal waters, or the storm drain system;
- ii. All debris resulting from demolition or construction activities, and any remaining construction materials, shall be removed from the project site within 24 hours of completion of the project;
- iii. Demolition and construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment that may be discharged into the storm drain system;
- iv. Erosion and sediment control BMPs shall be used to control dust and sedimentation impacts during construction. BMPs shall include, but are not limited to, placement of sandbags around storm drain inlets to prevent transport of sediment into the storm drain system;

- v. All trash and debris shall be disposed of in the proper trash and recycling receptacles at the end of every construction day.
 - vi. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
 - vii. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located within the coastal zone, a Coastal Development Permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
 - viii. All construction materials stockpiled on site shall be covered and enclosed on all sides to ensure that the materials are not discharged to the storm drain system or coastal waters;
 - ix. Machinery and equipment shall be maintained and washed in confirmed areas specifically designed to control runoff. If thinners, petroleum products or solvents must be used on site, they shall be properly recycled or disposed of after use, and shall not be discharged the storm drain system, sanitary sewers, coastal waters, or onto the ground.
 - x. The discharge of any hazardous materials into any coastal waters shall be prohibited;
 - xi. Spill discharge and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction chemicals and materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection measures to prevent any spillage of gasoline or other vehicular fluids or contact of vehicular fluids with runoff. The designated area shall be equipped with spill control materials and located to minimize the risk of spills reaching coastal waters, the storm drain system, sanitary sewers, or unpaved ground; and
 - xii. All BMPs and GHPs shall be continued and maintained in a functional condition throughout the duration of demolition and construction activity.
- b. **Minimize Other Impacts of Construction Activities.** Other impacts of demolition and construction activities shall be minimized through the use of appropriate BMPs, including:
- i. The damage or removal of non-invasive vegetation (including trees, native vegetation, and root structures) during construction shall be minimized, to achieve water quality benefits such as transpiration, vegetative interception, pollutant uptake, shading of waterways, and erosion control.

- ii. Soil compaction due to construction activities shall be minimized, to retain the natural stormwater infiltration capacity of the soil.
- iii. To minimize wildlife entanglement and plastic debris pollution, the use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, and mulch control netting) that contain plastic netting (including photodegradable plastic) shall be prohibited. Only products that contain loose-weave natural-fiber netting, or that do not contain netting, shall be allowed. Heavy-duty silt fences reinforced by plastic or metal netting shall also be prohibited. All temporary erosion and sediment control products shall be promptly removed when no longer required.
- c. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Post-Development Runoff Plan (PDRP).

- a. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, a Post Development Runoff Plan (PDRP) that includes a map, drawn to scale, showing the property boundaries, development footprint, runoff flow directions, relevant drainage and water quality features, impervious surfaces, permeable pavements and surfaces, and landscaped areas. The PDRP shall demonstrate that the project:
 - i. Minimizes disturbance of natural drainage features; minimizes removal of native vegetation; and avoids, to the extent feasible, covering or compaction of highly permeable soils.
 - ii. Preferentially uses Low Impact Development (LID) techniques to retain and disperse runoff on site.
 - iii. Uses infiltration to the greatest extent feasible to retain runoff; minimizes the addition of impervious surfaces; and disconnects impervious surfaces from the storm drain system by interposing strategically-located pervious areas.
 - iv. Unless specifically prohibited by conditions as documented in a detailed site analysis by a licensed engineer, runoff from the development produced by the 85th percentile 24-hour runoff event shall be infiltrated on-site.
 - v. Minimizes pollutants associated with landscaping and building materials.

- vi. Conveys excess runoff off-site in a non-erosive manner.
 - vii. Where flow-through BMPs are used, includes supporting calculations and product documentation.
 - viii. Includes all maintenance and operating procedures that will be conducted to keep the water quality provisions effective for the life of the development.
- b. The permittee shall undertake development in conformance with the approved PDRP. No changes to the plan shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Design and Maintenance Plan for Biofiltration Basin, Infiltration Basins, and Roadside Swales.

- a. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, a final plan for the design and maintenance of the Biofiltration basin, Roadside Infiltration Basins (BMPs a-e), Infiltration Basin (BMP-f), and Low Impact Development (LID) Roadside Swales depicted in [Exhibit 3](#) of this staff report. The plan shall demonstrate:
- i. The Roadside Infiltration Basins (BMPs a-e) and Infiltration Basin (BMP-f) shall be constructed without perforated underdrains, as they are designed to function as bioretention basins to infiltrate and retain the runoff from the 85th percentile 24-hour storm event.
 - ii. All vegetation planted within the Biofiltration Basin, Infiltration Basins (BMPs a-e), and LID Roadside Swales shall be maintained in a healthy growing condition throughout the life of the project, and shall be promptly replaced with new vegetation whenever necessary.
 - iii. Only native plant species shall be planted within the Biofiltration Basin, Infiltration Basins (BMPs a-f), and LID Roadside Swales. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or the State of California shall be planted or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Government shall be planted or allowed to naturalize or persist within the bioretention basin.
 - iv. The Biofiltration Basin, Infiltration Basins (a-f), and LID Roadside Swales shall be maintained in a litter-free and weed-free condition throughout the life of the project.

- v. The use of landscaping chemicals (i.e., pesticides, herbicides, and fertilizers) in maintenance of the Biofiltration Basin, Infiltration Basins (a-f), and LID Roadside Swales shall be minimized to the extent feasible, to minimize the discharge of pollutants to coastal waters.
 - vi. The inlet to the overflow drain of the Biofiltration Basin, Infiltration Basins (a-f), and LID Roadside Swales shall be kept free of litter, landscaping debris, and any other material that may clog the inlet.
 - vii. Routine maintenance of the Biofiltration Basin, Infiltration Basins (a-f), and LID Roadside Swales shall be conducted monthly, at a minimum, including a visual inspection of the BMP to ensure it is free of litter and weeds, the planted vegetation is in a healthy growing condition, and the inlet to the overflow drain is kept free of material that may clog the inlet.
 - viii. The Biofiltration Basin, Infiltration Basins (a-f), and LID Roadside Swales shall be inspected for ponded water monthly, at a minimum, or more frequently as needed after storm events, to ensure that ponded water fully drains within three days after the end of a storm.
- b. The permittee shall keep a maintenance log for the bioretention basin that documents all inspections and maintenance activities that have been conducted. Any corrective actions, repairs, or replacements shall be documented in the maintenance log. The log shall be available for inspection upon request by the Executive Director of the Coastal Commission.

5. Avian Monitoring.

- a. **PRIOR TO ANY CONSTRUCTION ACTIVITIES** during bird breeding/nesting season (February 15th through August 15th), a qualified biologist shall conduct a site survey for active nests no more than 72 hours prior to any development. If an active nest is located, then a qualified biologist shall monitor the nest daily until project activities are no longer occurring within 300 feet of the nest or within 500 feet of active raptors or gnatcatchers, or until the young have fledged and are independent of the adults or the nest is otherwise abandoned. The monitoring biologist shall halt construction activities if he or she determines that the construction activities may be disturbing or disrupting the nesting or foraging activities. The monitoring biologist shall make practicable recommendations to reduce the noise or disturbance in the vicinity of active nests or birds, or to eliminate the noise if it continues to be disruptive. This may include recommendations such as turning off vehicle engines and other equipment whenever possible to reduce noise, placing muffling blankets around heavy machinery, erecting a temporary barrier between the construction location and nests or foraging habitat, or ceasing noisemaking activities until birds are observed to relocate unprompted. The monitoring biologist shall review and certify compliance with these avoidance boundaries and shall verify that the nesting effort has finished in a written report. Unrestricted construction activities may resume when no other active nests are

found. The results of the site survey and any follow-up construction avoidance measures shall be documented by the monitoring biologist and submitted to the San Diego office of the California Coastal Commission.

6. Cultural Resources Treatment and Monitoring Plan.

- a. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval of the Executive Director an archeological/cultural resource monitoring plan prepared by a qualified professional, which shall incorporate the following measures and procedures:
 - i. The monitoring plan shall ensure that any prehistoric archaeological or paleontological or Native American cultural resources that are present on the site and could be impacted by the approved development will be identified so that a plan for their protection can be developed. To this end, the cultural resources monitoring plan shall require that archaeological and Native American monitors be present during all grading operations and subsurface construction activity that has the potential to impact cultural resources.
 - ii. There shall be at least one pre-grading conference with the project manager and grading contractor at the project site in order to discuss the potential for the discovery of archaeological/cultural or paleontological resources.
 - iii. Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, Native American monitor(s) with documented ancestral ties to the area appointed consistent with the standards of the Native American Heritage Commission (NAHC), and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD, shall monitor all project grading and subsurface construction activity (such as trenching for utilities) that has the potential to impact cultural resources, as required in the approved cultural resources monitoring plan required above.
 - iv. The permittee shall provide sufficient archeological and Native American monitors to assure that all project grading and subsurface construction activities that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times.
 - v. If any archaeological or paleontological, i.e., cultural deposits, are discovered, including but not limited to skeletal remains and grave-related artifacts, artifacts of traditional cultural, religious or spiritual sites, or any other artifacts, all construction shall cease within at least 50 feet of the discovery, and the permittee shall carry out significance testing of said deposits in accordance with the attached "Cultural Resources Significance Testing Plan Procedures" (Appendix B). The permittee shall report all significance testing results and analysis to the Executive Director.

- vi. If the Executive Director determines that the discovery is significant, the permittee shall follow the procedures in Appendix B to determine if an amendment to this permit is required. If an amendment to this CDP is required, development within at least 50 feet of the discovery shall not recommence until an amendment is approved, and then only in compliance with the provisions of such amendment.

7. Deed Restriction.

- a. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall to the Executive Director for review and approval documentation demonstrating that the landowner has executed and recorded against their respective parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit and covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modifications, or amendment thereof, remains in existence on or with respect to the subject property.

8. Open Space Deed Restriction.

- a. No development as defined in Section 30106 of the Coastal Act, shall occur in the steep slopes area as depicted in [Exhibit 4](#). Existing historical stone features are to remain as allowed uses in this area.
- b. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record an open space deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development in the designated open space area. The recorded document(s) shall include a legal description and corresponding graphic depiction of the legal parcel(s) subject to this permit and a metes and bounds legal description and a corresponding graphic depiction, drawn to scale, of the designated open space area prepared by a licensed surveyor based on an on-site inspection of the open space area.
- c. The deed restriction shall be recorded free of prior liens and any other encumbrances that the Executive Director determines may affect the interest being conveyed.

- d. The deed restriction shall run with the land in favor of the People of the State of California, binding successors and assigns of the landowner in perpetuity.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Background

The project consists of removal of all structures and uses on four adjacent lots including demolition of nine greenhouses, storage sheds, a vacant building, a cold storage trailer, four single family residences, row crops, and an existing private access road; and subdivision of the four parcels into a total of eight parcels ranging in size from 14,002 sq. ft. to 34,999 sq. ft. for future residential construction ([Exhibits 2 and 3](#)). Site preparation includes approximately 4,800 cubic yards of grading and construction of two hydromodification biofiltration basins. Construction of a two-lane public street, Bell Ranch Road, will create a total of 23 new parallel public parking spaces. The purpose of the project is to prepare eight legal lots for infill development, including installation of utility connections and construction of road and stormwater improvements; no construction of residences is proposed at this time. Coastal development permits will be required in the future to construct residences and associated improvements on the proposed parcels.

The subject site is a 4.19-acre lot located approximately 0.4 miles east of Coast Highway 101, approximately 0.4 miles west of Interstate-5, and approximately one-half mile north of Via De La Valle in the City of Solana Beach ([Exhibit 1](#)). Additionally, the site is located approximately 0.6 miles from the coast, not within regular walking distance of the beach or any major public recreation facilities.

The majority of the site is relatively flat and has been previously graded and used for both residential and agricultural uses. The easternmost portion of the site slopes down steeply to the east. The site is surrounded on all four sides by residential uses and is not visible from any major coastal access ways or recreational areas. The subject site is designated Low-Residential (LR-3) in the certified LUP; thus, the land use is planned for residential development and no zoning changes are proposed. Each of the proposed lots will meet all of the City of Solana Beach's setback requirements for front, side, and rear yards, as well as lot size requirements.

Coastal Act provisions on conversion of agricultural lands pertaining to the proposed project can be summarized as follows: Prime agricultural lands are to be maintained in production. Prime and non-prime agricultural lands either on the urban periphery or surrounded by urban uses may be converted if the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, as well as other applicable provisions of the Coastal Act. All other non-prime lands suitable for agriculture use may be converted only if conversion would preserve prime agricultural land, concentrate development and be compatible with continued agricultural use on surrounding lands.

Agricultural activities have occurred at the site prior to 1928 and through the present. According to the California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) and Important Farmland Finder, the subject site does not contain any prime agricultural lands. The site is also not subject to a Williamson Act contract restricting specific parcels of land to agricultural or related open space use. Although the conversion of the site to non-agricultural uses would not represent a reduction in prime agricultural lands, the loss of any agricultural land represents a cumulative impact on the region's agricultural productivity as a whole. However, the site has historically been used for both residential and agricultural uses, not exclusively agriculture. Agricultural uses occurring on the property are allowed within the City's Low-Residential zones.

One of the four parcels proposed to be subdivided, an approximately 1.3-acre parcel of the approximately 4.2-acre site, is currently used for the commercial farming of flowers. Thus, farming is possible on the land. However, the landowner and farmer of the lot has indicated that it is not economically feasible to continue the agricultural use at this site, as the site is required to pay residential rates for water, and is too expensive to be profitable.

Significantly, under Section 30242, implementing the conversion of this site to non-agricultural use is permissible and is consistent with Section 30250 in that the project consists of infill development contiguous with and in close proximity to existing residentially developed areas. The subject site is surrounded by existing residential development on lots of similar size to those proposed through the subject project. Thus, development of this site with residential uses will not adversely impact any adjacent agriculture uses and would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.

The applicant proposes to grade all land less than 25% grade, with approximately 4,800 cubic yards of cut and the same amount of fill to level the proposed building pads, which has the potential to impact water quality. **Special Condition #2** requires the applicant to submit a Construction Pollution Prevention Plan to minimize site runoff and erosion, and the discharge of sediment and other potential pollutants resulting from construction activities. Additionally, **Special Condition #3** requires the applicant to submit a Post-Development Runoff Plan to address runoff with a Low Impact Development (LID) approach that emphasizes the use of natural drainage features and earthen-based infiltration BMPs.

The project's preliminary hydrology study, prepared by Pasco Laret Suiter & Associates in November of 2017, concludes that stormwater discharge rates would be decreased below existing condition levels with the proposed stormwater treatment systems. The applicant, through coordination with the Commission's Water Quality staff, proposes to construct one stormwater hydromodification (HMP) Biofiltration Basin to capture stormwater, treat it, and control its flow before releasing it off-site into the storm drain system. The applicant also proposes to construct six bioretention basins to infiltrate and retain the runoff from the 85th percentile 24-hour storm even, named Roadside Infiltration Basins (BMPs a-e) and Infiltration Basin (BMP-f), as well as several roadside

swales. **Special Condition #4** requires the applicant to submit a Design and Maintenance Plan for the Biofiltration Basin, six Infiltration Basins (i.e., bioretention basins), and roadside swales to ensure proper design, function, and ongoing maintenance of these structures.

The majority of the approximately 4.2-acre site is relatively flat and has been developed or disturbed as part of the existing residential uses and farm operations. Approximately 0.65 acres of steep slopes in excess of 25% grade are located along the eastern portion of the site. The steep slopes area contains some mature, native species including a Torrey Pine, mission manzanita, Ramona ceanothus and holly-leaf redberry. However, the long and intense residential and agriculture uses on the site has resulted in a loss of the native understory, and as such, these mature natives do not comprise a recognized sensitive habitat or provide essential habitat connectivity, and therefore, do not qualify as environmentally sensitive habitat area. **Special Condition #8** requires the applicant to record an Open Space Deed Restriction over the entire portion of the site more than 25% grade, restricting development and removal of vegetation ([Exhibit 4](#)).

The applicant is proposing to remove ornamental trees and other non-native vegetation on-site. Due to the proposed tree removal, **Special Condition #5** requires a site survey for active nests 72 hours prior to any construction during the bird nesting season (February 1st – September 15th), as well as monitoring and mitigation measures to avoid impacts to nesting birds.

A cultural resources study completed for the project identified four historic features consisting of decorative stonework that were likely constructed in the early 1930s on the property (recorded as Site P-37-034886) and considered potentially significant under the California Register of Historic Resources (Brian F. Smith and Associates, Inc., 2015). The four stone features include an arbor, a terrace or stairway, a barbeque and associated patio, and two-foot-high retaining walls. All four of the stone features are located within areas of steep slopes on the eastern portion of the property and are outside of the project footprint. These features will remain undisturbed within the open space deed restricted area required by **Special Condition #8**.

The project site does not contain any known cultural resources. However, thirteen previously recorded sites were identified within a one-mile radius of the site. Based on a list from the Native American Heritage Commission, input was solicited from 20 tribal representatives with cultural ties to the area. Two of the twenty Native American representatives responded to request that a Native American monitor be present during grading activities. As a result of this tribal consultation, the City's Mitigation Monitoring and Reporting Program requires archeological and Native American monitors during all grading activities and describes mitigation measures to be implemented if significant cultural resources are discovered. To ensure that any prehistoric, archeological, or paleontological resources that may be present on the site receive proper protections, **Special Condition #6** requires the applicant to submit a Cultural Resources Treatment and Monitoring Plan. The plan requires both archaeological and Native American monitors to be present during all grading operations and requires work to stop if cultural deposits are discovered so that significance testing can be conducted.

While the City of Solana Beach has a certified LUP, the City's Local Coastal Plan is not certified because the City has not yet completed, nor has the Commission reviewed, any implementing ordinances. Thus, the standard of review for the proposed development is the Chapter 3 policies of the Coastal Act, and the certified LUP is used as guidance.

B. Conversion of Agricultural Lands

The proposed development will result in conversion of non-prime agricultural land to urban uses and will not adversely impact any adjacent agricultural uses. Continued agricultural use at this site is not economically feasible and the site is surrounded by urban uses. Thus, conversion to urban uses would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development consistent with Sections 30241, 30242, and 30250 of the Coastal Act.

C. Biological Resources/Water Quality

Coastal Act policies 30240 and 30251 restrict the alteration of natural landforms and protect sensitive habitats. Section 30231 of the Coastal Act requires that coastal waters are protected and runoff is minimized.

The proposed development will not have an adverse impact on any natural steep slopes or sensitive habitat, and, as conditioned, will not result in erosion or adverse impacts to water quality, as adequate temporary erosion controls (construction BMPs) and drainage controls will be provided. Thus, the project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

D. Cultural Resources

As conditioned, the proposed development will not have an adverse impact on archeological, cultural or paleontological resources. Potentially historic structures likely constructed in the 1930s will be protected in-place through an Open Space Deed Restriction. Grading will be monitored and a cultural resources plan will ensure proper procedures if any prehistoric or cultural resources are identified during construction. Therefore, as conditioned, the proposed development conforms to Section 30244 of the Coastal Act.

E. Community Character/Visual Quality

The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area and will not impact public views. Therefore, the Commission finds that the development, as conditioned, conforms to Section 30251 of the Coastal Act.

F. Public Access/Parking

As conditioned, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities, and the proposed development

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conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

G. Local Coastal Planning

The City of Solana Beach has certified LUP, but does not have a certified IP at this time. Thus, the Coastal Commission retains permit jurisdiction and Chapter 3 of the Coastal Act remains the legal standard of review. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

H. California Environmental Quality Act

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, 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 Solana Beach prepared a Mitigated Negative Declaration to evaluate the potential environmental consequences associated with the project and found that avian monitoring, cultural monitoring, hazardous materials, and noise mitigation measures were necessary to minimize potential adverse impacts to biological resources and water quality.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing water quality, biological resources and cultural resources will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENT

- City of Solana Beach Revised and Recirculated Initial Study / Mitigated Negative Declaration (MND) Proposed Ocean Ranch Estates Tentative Subdivision Map Project, February 2019
- City of Solana Beach Priority Development Project (PDP) Water Quality Technical Report (WQTR) for Ocean Ranch Estates, August 2021

APPENDIX B – CULTURAL RESOURCES SIGNIFICANCE TESTING PLAN PROCEDURES

- A. An applicant seeking to recommence construction following discovery of cultural deposits shall submit a Significance Testing Plan for the review and approval of the Executive Director. The Significance Testing Plan shall identify the testing measures that will be undertaken to determine whether the cultural deposits are significant. The Significance Testing Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), and the Most Likely Descendent (MLD) when State Law mandates identification of an MLD. The Executive Director shall make a determination regarding the adequacy of the Significance Testing Plan within 10 working days of receipt. If the Executive Director does not make such a determination within the prescribed time, the plan shall be deemed approved and implementation may proceed.
1. If the Executive Director approves the Significance Testing Plan and determines that the Significance Testing Plan's recommended testing measures are de minimis in nature and scope, the significance testing may commence after the Executive Director informs the permittee of that determination.
 2. If the Executive Director approves the Significance Testing Plan but determines that the testing measures therein are not de minimis, significance testing may not recommence until after an amendment to this permit is approved by the Commission.
 3. Once the measures identified in the Significance Testing Plan are undertaken, the permittee shall submit the results of the testing to the Executive Director for review and approval. The results shall be accompanied by the project archaeologist's recommendation as to whether the deposits are significant. The project archaeologist's recommendation shall be made in consultation with the Native American monitors and the MLD when State Law mandates identification of an MLD. The Executive Director shall make the determination as to whether the deposits are significant based on the information available to the Executive Director. If the deposits are found to be significant, the permittee shall prepare and submit to the Executive Director a supplementary Archaeological Plan in accordance with subsection B of this condition and all other relevant subsections. If the deposits are found to be not significant, then the permittee may recommence grading in accordance with any measures outlined in the significance testing program.
- B. An applicant seeking to recommence construction following a determination by the Executive Director that the cultural deposits discovered are significant shall submit a Supplementary Archaeological Plan for the review and approval of the Executive Director. The Supplementary Archaeological Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), the Most Likely Descendent (MLD) when State Law mandates identification of a MLD, as well as others identified in subsection C below. The Supplementary Archaeological Plan

shall identify proposed investigation and mitigation measures. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Mitigation measures considered may range from in-situ preservation to recovery and/or relocation. A good faith effort shall be made to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, capping, and placing cultural resource areas in open space. In order to protect cultural resources, any further development may only be undertaken consistent with the provisions of the Supplementary Archaeological Plan.

1. If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after the Executive Director informs the permittee of that determination.
 2. If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.
- C. Prior to submittal to the Executive Director, all plans required to be submitted pursuant to this special condition, except the Significance Testing Plan, shall have received review and written comment by a peer review committee made up of qualified archaeologists convened in accordance with current professional practice. Representatives of Native American groups with documented ancestral ties to the area shall also be given an opportunity to review and submit written comments on the required plans. Names and qualifications of selected peer reviewers shall be submitted for review and approval by the Executive Director. The plans submitted to the Executive Director shall incorporate the recommendations of the peer review committee and Native American representatives or explain why the recommendations were rejected. Furthermore, upon completion of the review process, all plans shall be submitted to the California Office of Historic Preservation (OHP) and the NAHC for their review and an opportunity to comment. The plans submitted to the Executive Director shall incorporate the recommendations of the OHP and NAHC. If the OHP and/or NAHC do not respond within 30 days of their receipt of the plan, the requirement under this permit for that entities' review and comment shall expire, unless the Executive Director extends said deadline for good cause. All plans shall be submitted for the review and approval of the Executive Director.