

CALIFORNIA COASTAL COMMISSION

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



W18a

A-5-HNB-21-0031 (SIGNAL LANDMARK)

JULY 7, 2021

EXHIBITS

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Project Site: 2.5-acre vacant site at 17202 Bolsa Chica Street (east side of Bolsa Chica St., south of Los Patos Ave) (APN: 163-361-10)

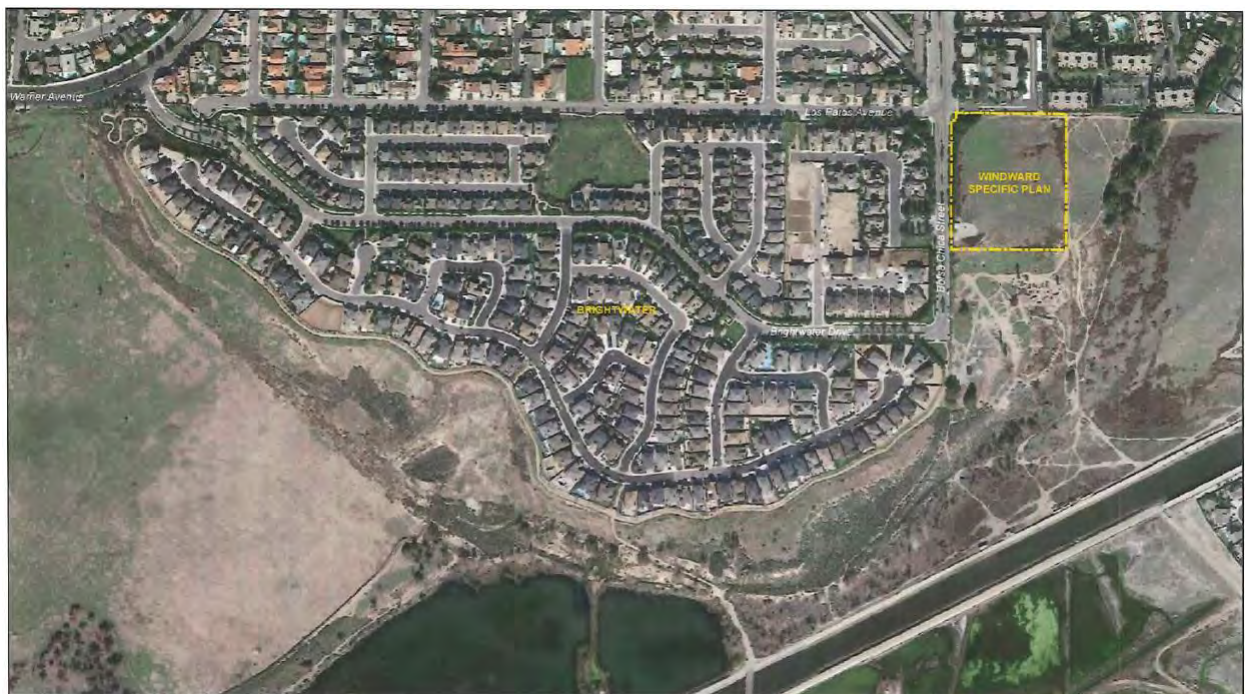
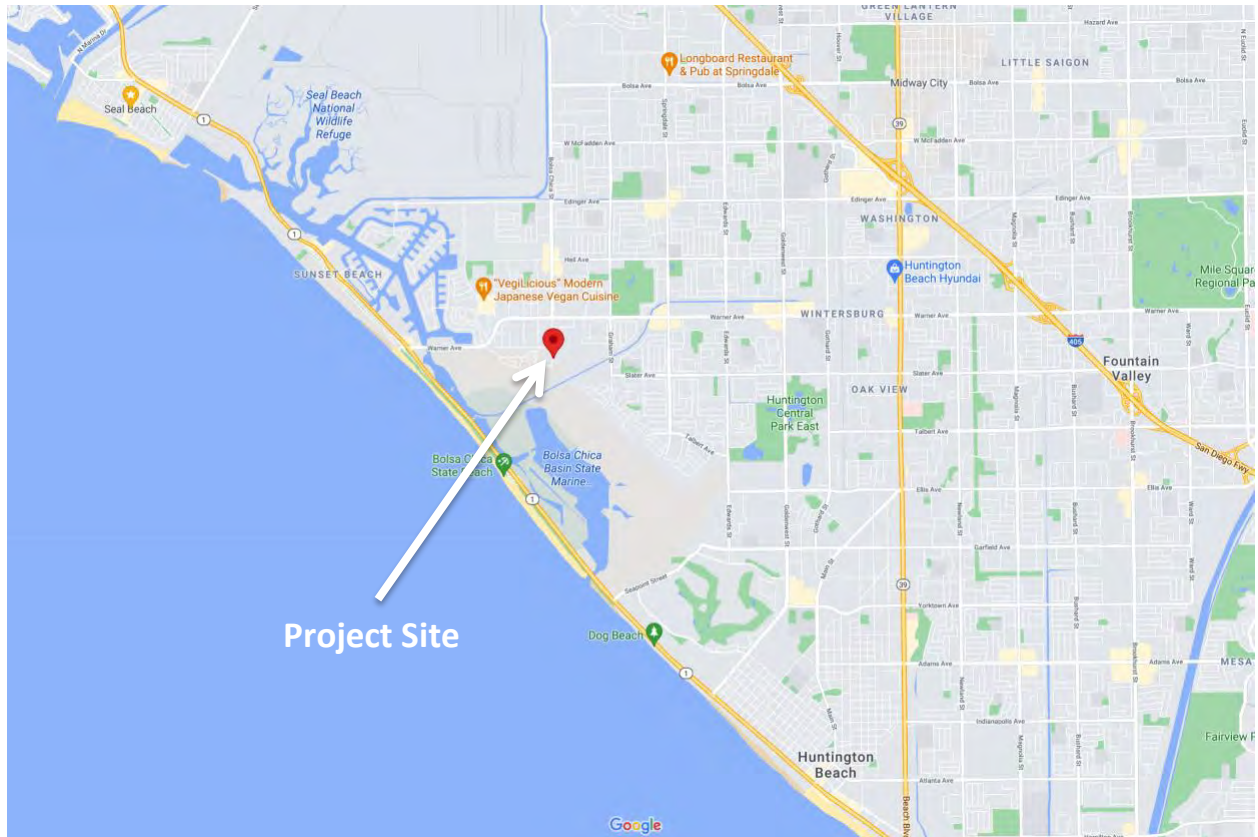
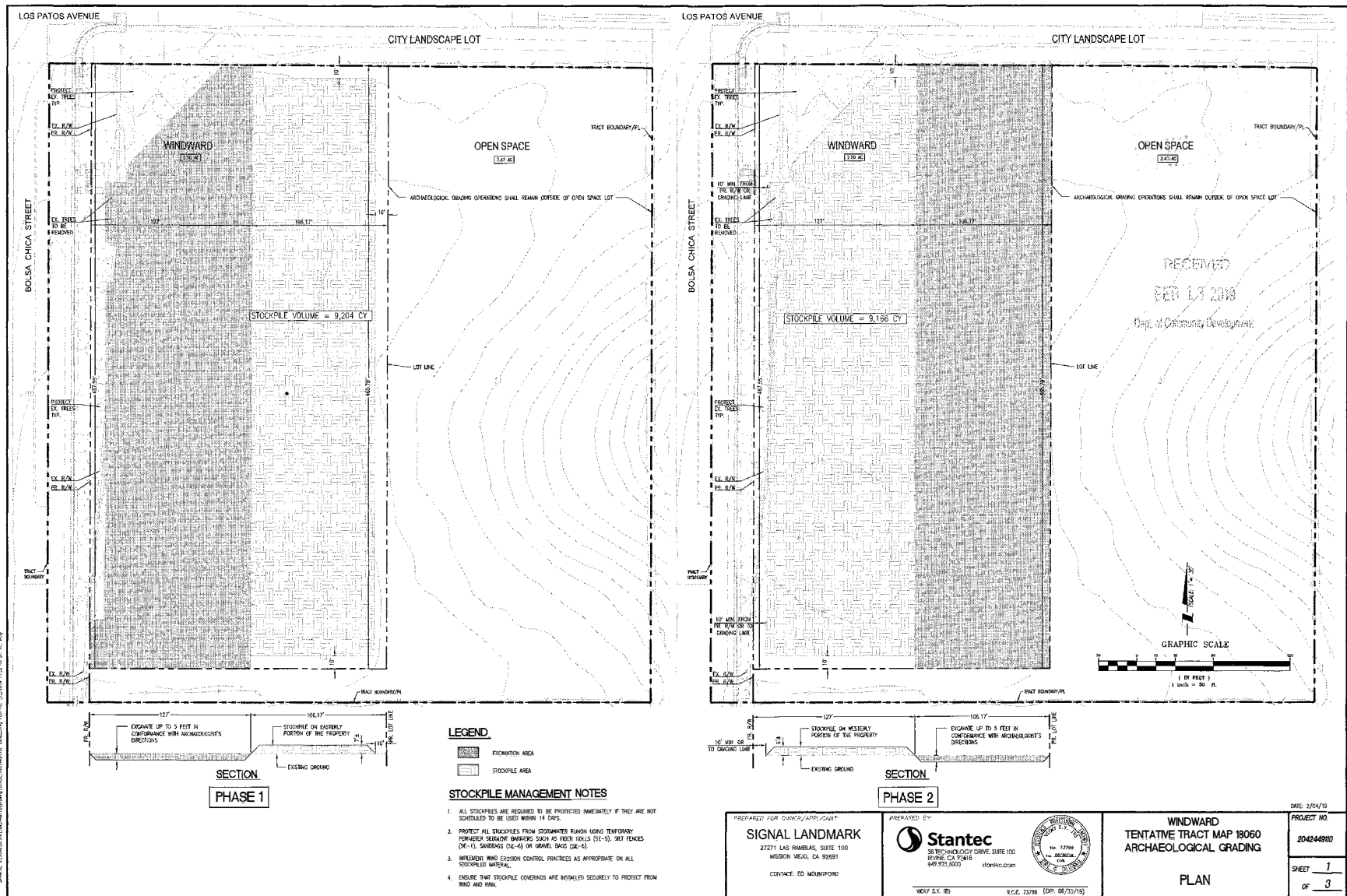




Figure 1. Location of the Windward Development Area at the Southeast Corner of Los Patos and Bolsa Chica Street as the Western Portion of the Windward Property and in relation to the Goodell Parcel to the South and City-Owned strip of land to the North.



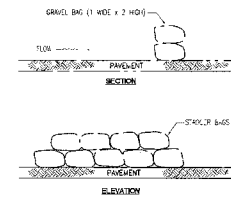
NPDES GENERAL NOTES:

1. SEDIMENT FROM AREAS DISTURBED BY CONSTRUCTION SHALL BE RETAINED ON SITE USING REVERSE-SLOPED BENTONITE MATS (BMMs). BMMs SHALL BE PRECIPITATED PRIOR TO ANY CONSTRUCTION ACTIVITY SUCH AS GRADING THAT MAY CAUSE SOIL DISTURBANCE. THESE BMMs ARE TO BE MAINTAINED YEAR-ROUND OR UNTIL ALL LOOSE SEDIMENT HAS BEEN STABILIZED.
2. STOCKPILES OF SOIL SHALL BE PROPERLY COVERED TO MINIMIZE SEDIMENT TRANSPORT FROM THE SITE TO STREETS, DRAINAGE FACILITIES AND ADJACENT PROPERTIES. AN EROSION CONTROL TRACKING ON ROAD. STOCKPILE BARRIERS SHALL BE NO MORE THAN 6 FEET IN HEIGHT AND SHALL BE COMPLETELY COVERED WITH A SECURE IMPERMEABLE COVER AT THE END OF EACH WORK DAY. ALL STOCKPILES SHALL BE LOCATED AWAY FROM ANY STORM DRAIN BY ITS AND AWAY FROM ANY STORM WATER CONDUITANCE STRUCTURES. AT NO TIME SHALL ANY STOCKPILE BE STAGED OR STOCKPILED ON CITY STREETS, SIDEWALKS, PARKING OUTLETS WITHOUT A VALID CONSTRUCTION PERMIT.
3. APPROPRIATE BARRIERS FOR CONSTRUCTION-RELATED MATERIALS, WHEELS, SPILLS OR RESIDUES SHALL BE IMPLEMENTED TO MINIMIZE TRANSPORT FROM THE SITE TO STREETS, DRAINAGE FACILITIES AND ADJACENT PROPERTY BY ROAD OR RUNOFF.
4. RUNOFF FROM EQUIPMENT AND VEHICLES SHALL BE CONTAINED ON-THE CONSTRUCTION SITE AND SHALL NOT BE DISCHARGED TO RECEIVING WATERS OR TO THE STORM DRAIN SYSTEM.
5. CONCRETE WASH OUT WATER SHALL BE CONTAINED IN A WATER-TIGHT DRAIN TO PREVENT CONTENT DEPOSITION ONTO THE GROUND AND RUNOFF INTO STREETS, DRAINAGE FACILITIES AND RECEIVING WATERS.
6. ALL CONSTRUCTION CONTRACTOR AND SUBCONTRACTOR PERSONNEL ARE TO BE MADE AWARE OF THE REQUIRED BMMs AND SOIL HANDLING MEASURES FOR THE PROJECT SITE AND ANY ASSOCIATED CONSTRUCTION STAGING AREAS.
7. AT THE END OF EACH WORK DAY, ALL CONSTRUCTION DEBRIS AND WASTE MATERIALS SHALL BE COLLECTED AND PROPERLY DISPOSED IN COVERED TRUCKS OR RECYCLE BINS.
8. CONSTRUCTION SITES SHALL BE MAINTAINED IN SUCH A MANNER THAT SEDIMENT DOES NOT CARRY WATERS OR POLLUTANTS OFF THE SITE. DISCHARGES OF MATERIALS OTHER THAN SEDIMENT (SUCH AS FERTILIZERS) ARE PROHIBITED EXCEPT AS AUTHORIZED BY AN APPLICABLE WATER PERMIT OF THE STATEWIDE GENERAL CONSTRUCTION CONSTRUCTION PERMIT.
9. ALL UNPAVED CONSTRUCTION ENTRANCES AND EXITS SHALL BE PROTECTED USING AN EFFECTIVE COMBINATION OF TRACKING CONTROL BARS TO MINIMIZE AND/OR ELIMINATE OFF-SITE TRACKING OF SEDIMENT. TRACKING BARS SHALL BE MAINTAINED AND INSPECTED DAILY.
10. ALL TEMPORARY PORTABLE RESTROOMS MUST HAVE A CHAINMENT PIN AND MUST BE LOCATED AT LEAST 20 FEET AWAY FROM ANY STORM DRAIN INLETS.
11. POLLUTANTS ARE ANY SUBSTANCES INTRODUCED INTO THE ENVIRONMENT THAT ADVERSELY AFFECTS THE USEFULNESS OF A RESOURCE. POLLUTANTS INCLUDE, BUT ARE NOT LIMITED TO: SEDIMENT, SOIL OR LOOSE CHEMICALS SUCH AS PAINTS, OILS, GREASES, SOLVENTS, DETERGENTS, GREASE, LIME, FERTILIZERS, HERBICIDES, FERTILIZERS, WOOD PRESERVATIVES AND ADHESIVES, PAINTS, PLASTICS, FUELS, OILS, GREASES, AND HYDRAULIC FLUIDS, ACIDIC, AND RELATED OILS OR OILS, RESIDUES, FERTILIZERS, HERBICIDES, WATERS FROM ENGINE/EQUIPMENT CLEANING OR CHEMICAL DECONTAMINATING, WATERS FROM STREET CLEANING, AND SUPER-SATURATED POTABLE WATER FROM LINE CLEANING AND TESTING.
12. DURING CONSTRUCTION, DISPOSAL OF SOIL MATERIALS SHOULD OCCUR IN A CONTROLLED AND MONITORED MANNER. A DESIGNATED TEMPORARY AREA ON-SITE SHALL BE IDENTIFIED TO PREVENT FROM POLLUTING "CONTAMINATED RUNOFF", WITH A NAME IDENTICAL TO APPROPRIATE STATE AND FEDERAL REQUIREMENTS.
13. DISCHARGING CONTAMINATED GROUNDWATER, PRODUCED BY DECONTAMINATING GROUNDWATER THAT HAS INLEAKED INTO THE CONSTRUCTION SITE IS PROHIBITED. DISCHARGING OF GROUNDWATER TO SURFACE THROUGH IS ALSO PROHIBITED. DISCHARGING AND CONTAMINATED GROUNDWATER PRODUCED BY DECONTAMINATING ACTIVITIES REQUIRES A NATIONAL POLLUTANTS DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT FROM THE RESPECTIVE STATE REGIONAL WATER QUALITY CONTROL BOARD.
14. DISCHARGES OF STORM WATER FROM CONSTRUCTION SITES SHALL NOT BE LADEN WITH SEDIMENT. ALL STORM WATER DISCHARGES MUST BE RELATIVELY FREE OF SEDIMENT.

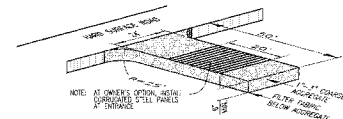
NOTICE: A. CONTRACTORS AND CONSTRUCTION PERSONNEL SHALL MEET THE REGULATORY CONSTRUCTION REQUIREMENTS ON THE PROJECT SITE IN CONFORMANCE WITH THE CITY'S GRADING AND EROSION CODE (MCM CODE 17.05).

NOTES:

1. IN THE CASE OF EMERGENCY, CALL _____ AT WORK PHONE # (XXX) XXX-XXXX OR CELL PHONE # (XXX) XXX-XXXX.
2. SEDIMENT FROM AREAS DISTURBED BY CONSTRUCTION SHALL BE RETAINED ON-SITE USING STRUCTURAL CONTROLS TO THE MAXIMUM EXTENT PRACTICABLE.
3. ALL CONSTRUCTION CONTRACTOR AND SUBCONTRACTOR PERSONNEL ARE TO BE MADE AWARE OF THE REQUIRED BEST MANAGEMENT PRACTICES AND SOIL HANDLING MEASURES FOR THE PROJECT SITE AND ANY ASSOCIATED CONSTRUCTION STAGING AREAS.
4. GRADED AREAS ON THE PERMITTED AREA PERMITTED MUST BE MAINTAINED AWAY FROM THE FACE OF SLOPES AT THE COMPLETION OF EACH WORKING DAY. EROSION IS TO BE CONTROLLED THROUGH VEGETATION.
5. THE PERMITTEE AND CONTRACTOR SHALL BE RESPONSIBLE AND SHALL TAKE NECESSARY PRECAUTIONS TO PREVENT PUBLIC DRAINAGE INTO AREAS WHERE UNPAVED WATER CREEKS A HAZARDOUS CONDITION.
6. THE PERMITTEE AND CONTRACTOR SHALL INSPECT THE EROSION CONTROL WORK AND INSURE THAT THE WORK IS IN ACCORDANCE WITH THE APPROVED PLANS.
7. THE PERMITTEE SHALL NOTIFY ALL GENERAL CONTRACTORS, SUBCONTRACTORS, MATERIAL SUPPLIERS, VESSELS, AND PROPERTY OWNERS THAT DUMPING OF CHEMICALS INTO THE STORM DRAIN SYSTEM OR THE WATERSHED IS PROHIBITED.
8. EQUIPMENT AND WORKERS FOR EMERGENCY WORK SHALL BE MADE AVAILABLE AT ALL TIMES DURING THE RAINY SEASON. NECESSARY MATERIALS SHALL BE AVAILABLE ON-SITE AND STOCKPILED AT CONSTRUCTION LOCATIONS TO FACILITATE RAPID CONSTRUCTION OF EMERGENCY DEVICES WHEN RAIN IS IMMINENT.
9. ALL EROSION PROTECTIVE DEVICES SHALL BE IN PLACE AT THE END OF EACH WORKING DAY WITHIN THE 5-DAY RAIN PROHIBIT FOR EROSION PROTECTIVE DEVICES ARE.
10. APPROPRIATE BARRIERS FOR CONSTRUCTION-RELATED MATERIALS, WHEELS, SPILLS OR RESIDUES SHALL BE IMPLEMENTED AND RETAINED ON-SITE TO MINIMIZE TRANSPORT FROM THE SITE TO STREETS, DRAINAGE FACILITIES, OR ADJACENT PROPERTY BY ROAD OR RUNOFF.



GRAVEL BAGS BARRIER (SE)
NOT TO SCALE



- NOTES:
1. THE ENTRANCE SHALL BE MAINTAINED IN A CONDITION THAT WILL PREVENT TRACKING OR FLOWING OF SEDIMENT ONTO PUBLIC RIGHT OF WAY. THIS MAY INCLUDE TOP DRESSING, REPAIR AND/OR CLEANUP OF ANY MEASURES USED TO TRAP SEDIMENT.
 2. WHEN NECESSARY, WHEELS SHALL BE CLEANED PRIOR TO ENTRANCE ONTO PUBLIC RIGHT-OF-WAY.
 3. WHEN MAINTENANCE IS REQUIRED, IT SHALL BE DONE ON AN AREA STABILIZED WITH CRUSHED STONE THAT DRAINS INTO AN APPROVED SEDIMENT TRAP OR SEDIMENT BASIN.

STABILIZED CONSTRUCTION ENTRANCE/EXIT (TC)
NOT TO SCALE

<p>PREPARED FOR OWNER/APPLICANT:</p> <p>SIGNAL LANDMARK 27271 LANE WILLOW, SUITE 100 MISSION VIELO, CA 92691</p> <p>CONTACT: ED MOUNTFORD</p>	<p>PREPARED BY:</p> <p>Stantec 30 TECHNOLOGY DRIVE, SUITE 100 BOYD, CA 92008 949.825.6000 stantec.com</p> <p>WCAV S.T. 100 R.C.E. 73368 (EXP. 06/30/19)</p>	<p>DATE: 2/04/19</p> <p>PROJECT NO: 204244910</p> <p>SHEET 3 OF 3</p> <p>WINDWARD TENTATIVE TRACT MAP 18060 ARCHAEOLOGICAL GRADING</p> <p>EROSION CONTROL DETAILS</p>
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CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
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(562) 590-5071
SOUTHCOAST@COASTAL.CA.GOV

**APPEAL FORM****Appeal of Local Government Coastal Development Permit****Filing Information (STAFF ONLY)**

District Office: South Coast

Appeal Number: A-5-HNB-21-0031

Date Filed: 5/3/21

Appellant Name(s): Commissioners Hart and Brownsey

APPELLANTS

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review the appeal information sheet. The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's contact page at <https://coastal.ca.gov/contact/#/>).

Note regarding emailed appeals. Please note that emailed appeals are accepted ONLY at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the South Coast district office, the email address is SouthCoast@coastal.ca.gov. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's contact page at <https://coastal.ca.gov/contact/#/>.

Appeal of local CDP decision

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1. Appellant information¹

Name: Coastal Commissioners Hart and Brownsey

Mailing address: 455 Market Street, Suite 300

Phone number: San Francisco, CA 94105

Email address: (415) 904-5202

How did you participate in the local CDP application and decision-making process?

☒ Did not participate ☐ Submitted comment ☐ Testified at hearing ☐ Other

Describe: N/A

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: _____
California Coastal Commissioners

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: N/A

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

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2. Local CDP decision being appealed²

Local government name: City of Huntington Beach

Local government approval body: Zoning Administrator, PERMIT NO. 20-016

Local government CDP application number: ☐ _____ ☐ _____

Local government CDP decision: CDP approval CDP denial³

Date of local government CDP decision: 4/7/21 _____

Please identify the location and description of the development that was approved or denied by the local government.

Describe:

COASTAL DEVELOPMENT PERMIT NO. 20-016 (WINDWARD ARCHAEOLOGICAL GRADING AND MONITORING - CONTINUED FROM THE MARCH 17, 2021, ZONING ADMINISTRATOR MEETING) Approval of: To permit archaeological grading and monitoring activities on a vacant 2.5-acre portion of an approximately 5-acre property located in the Coastal Zone. LOCATION: APN 163-361-10 (Vacant Property - Southeast of Bolsa Chica Street at Los Patos Avenue; South of City landscape lot)

² Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

³ Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the appeal information sheet for more information.

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On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., the applicant, other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

Describe: see attached

Coastal Commission
Exhibit 3
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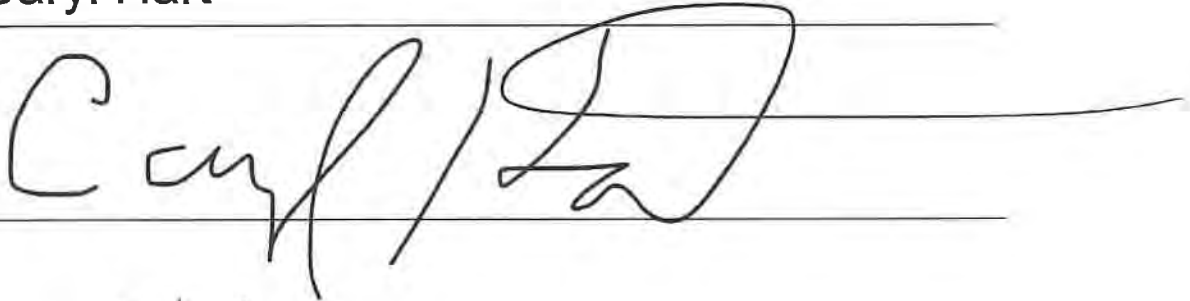
Appeal of local CDP decision
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5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Caryl Hart

Signature



Date of Signature

5/3/21

5. Representative authorizations

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☐

I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

NOT APPLICABLE!

5 If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

6 If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

Appeal of local CDP decision
Page 5

5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Donne Brownsey

Signature

Donne Brownsey

Date of Signature

May 3, 2021

5. Representative authorization

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☐ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

⁵ If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

⁶ If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

The local coastal development permit, 20-016, approved by the City of Huntington Beach Zoning Administrator, raises issues as to consistency with the certified Huntington Beach Local Coastal Program (LCP) cultural resources protection policies.

The City's certified Land Use Plan Coastal Element contains the following policies regarding cultural resources:

C5 -Promote the preservation of significant archaeological and paleontological resources in the Coastal Zone.

C.5.1 -Identify and protect to the maximum extent feasible, significant archaeological, paleontological and historic resources in the Coastal Zone.

C. 5.1.1 -Coordinate with the State of California Historic Preservation Office to ensure that archaeological and palaeontologic and historically significant resources within the Coastal Zone are identified.

C.5.1.2- Where new development would adversely impact archaeological or paleontological resources within the Coastal Zone, reasonable mitigation measures to minimize impacts shall be required.

C. 5.1.3 - In the event that any Native American human remains are uncovered, the County Coroner, the Native American Heritage Commission, and the Most Likely Descendants, as designated by the California Native American Heritage Commission, shall be notified. The recommendations of the Most Likely Descendants shall be obtained prior to the disposition of any prehistoric Native American human remains.

C.5.1.4- A completed archaeological research design shall be submitted along with any application for a coastal development permit for development within any area containing archaeological or paleontological resources. The research design shall determine the significance of any artifacts uncovered and make recommendations for preservation. Significance will be based on the requirements of the California Register of Historical Resources criteria and prepared based on the following criteria:

- a) Contain a discussion of important research topics that can be addressed: and*
- b) Be reviewed by at least three (3) County-certified archaeologists (peer review committee).*
- c) The State Office of Historic Preservation and the Native American Heritage Commission shall review the research design.*
- d) The research design shall be developed in conjunction with affected Native American groups.*
- e) The permittee shall comply with the requirements of the peer review committee to assure compliance with the mitigation measures required by the archaeological research design.*

C 5.1.5- A County-certified paleontologist/archaeologist, shall monitor all grading operations where there is a potential to affect cultural or paleontological resources based on the required research design. A Native American monitor shall also monitor grading operations. If grading operations uncover paleontological/archaeological resources, the paleontologist/archaeologist or Native American monitor shall suspend all development activity to avoid destruction of resources until a determination can be made as to significance of the paleontological/archaeological resources. If found to be significant the site(s) shall be tested and preserved until a recovery plan is completed to assure the protection of paleontological/archaeological resources.

The City's certified Implementation Plan Zoning Code also provides standards for Archaeological/Cultural Resources, in Section 230.82.8 Archaeological/Cultural Resources. Among the requirements included in that section is the following (Section 230.82.8.4. Mitigation Plan):

Mitigation Plan. The ARD [Archaeological Research Design] shall include appropriate mitigation measures to ensure that archaeological/cultural resources will not be adversely impacted. These mitigation measures shall be contained within a Mitigation Plan. The Mitigation Plan shall include an analysis of a full range of options from in-situ preservation, recovery, and/or relocation to an area that will be retained in permanent open space. The Mitigation Plan shall include a good faith effort to avoid impacts to archaeological/cultural resources through methods such as, but not limited to: project redesign, capping, and placing an open space designation over cultural resource areas. (Emphasis added).

In addition, Section 230.82.8.7 states: *The subsequent mitigation shall be prepared in consultation with the Native American Heritage Commission (NAHC), Native American tribal group(s) that have ancestral ties to the area as determined by the NAHC, and the State Historic Preservation Officer, subject to peer review.*

In approving local Coastal Development Permit 2-016, the City Zoning Administrator approved archaeological grading and monitoring activities on a vacant 2.5-acre portion of an approximately 5-acre property located in the Coastal Zone. The controlled archaeological grading will consist of using mechanized equipment where the subsurface soils are removed in approximate 2-centimeter depth increments by a mechanical scraper under the supervision of the Archaeological Principal Investigator/site supervisor in coordination with Native American Monitors, which will continue until sterile soils are reached. The grading operation on the 2.5-acre site will be split in half, so that grading will occur on the western side, and materials will be stockpiled on the eastern side, and then vice versa. The grading will take approximately 30-60 days. If resources are found, grading will stop until an assessment can be made regarding the status of the resource.

The grading and monitoring activities approved by the City are effectuated via the City-approved document titled Windward Residential Project Archaeological Mitigation and Monitoring Plan (AAMP) and Paleontological Resource Mitigation and Monitoring Plan by Nancy Anastasia Wiley ND and Joe D. Stewart, PhD, Chief Paleontologist, dated April 2021. The AMMP is intended to establish the procedures to conduct controlled archaeological grading across the western half (2.5 acres) of the subject property. The western half, under the Windward Specific Plan in the event the specific plan becomes operative (as that term is defined in the specific plan), could potentially be allowed to support residential development on 2.5 acres. The Windward Specific Plan has not

become operative yet. As such, the standard of review for the subject site is the City's certified Local Coastal Program (LCP), not including the Windward Specific Plan (approved by the Commission in December 2018).

In April 2016 the landowner entered into an option agreement with the Trust for Public Land (TPL) to acquire the 2.5 acre Windward and neighboring 8.7 acre Goodell Family Trust property for open space/conservation purposes. TPL's option on the property expired in April 2019 without the property being acquired. The findings of the Specific plan approval from 2019 state: "In the event the Windward Specific Plan does not become operative as described in that document, the uses permitted in Subsection 4M [the subject Windward site] shall be limited to Open Space-Parks and/or Open Space Conservation....Thus, the 2.5 acres of residential development that would be allowed under the Specific Plan's Development Alternative could be implemented *only after preservation of 8.7 acres of land for open space conservation uses is assured.*"

At the time the Commission approved the Windward Specific Plan, efforts were underway to acquire and preserve the subject property. Because the property was not acquired for preservation to date, the property owner is pursuing development of some of the property as outlined in the specific plan. One of the significant questions raised here is whether it is appropriate at this time to allow development to proceed or whether additional efforts toward full preservation of the property should or could be pursued. The proposed archeological grading is a precursor to development in an area that some local native Americans tribal representatives with ancestral ties to the area have identified as sacred lands and prefer the area not be disturbed any further.

The City-approved project raises several questions of consistency with the LCP policies that require protection of significant archeological resources to the maximum extent feasible, for the reasons enumerated below:

1. The City-approved project misrepresents the extent of grading and the AMMP description of the grading area is inaccurate.

The AMMP states: "the current Controlled Archaeological Grading is limited to areas along the western edge of ORA-86 in what ARI described as "periphery areas (outside the nominated area) containing only scattered artifacts and very little undisturbed surface material" (PCAS 1980)." That does not appear to be the case. The AMMP does not include an exhibit showing the proposed grading area overlaid onto the site boundaries of the national listing. The grading is proposed well within the area nominated for the national registry, as shown in Figure 3, and is not limited to the periphery areas, as quoted above. The area representing ORA-86 on exhibits showing the 2001 SRS Grid and Auger Program was taken from the boundaries established by Herring and Eberhart in the 1960s, and the AMMP ignores the areas and boundaries listed on the national registry in 1980 (which covers CA ORA-83 and -86 and then some). This point was brought up to the City in a consultation with tribal members.

2. The City-approved AMMP does not address the potential impacts of the project on a site that is considered significant, nationally registered, and sacred lands.

The proposed controlled grading is intended to allow for development by exposing remaining archeological resources that may be present underground, in order to test any resources for significance and determine if they should be preserved onsite or off-site. The Bolsa Chica mesa has already been determined to support significant resources (over the past 60 years) and is already listed on the national registry of historic properties and has been listed since 1980. The listing in 1980 included the subject site (ORA 86) in addition to the well-known cogged-stone site (ORA 83). The cogged-stone site (ORA 83) is located on the Bolsa Chica Mesa less than 100 yards from the subject site (ORA 86). In fact, when the site was listed on the National Register in 1980, ORA 83 included this subject site (the area of ORA 86) and was described as: *"The Cogstone Site, CA-Ora-83, is a highly unique and significant archaeological resource. The site is unique for its tremendous yield of cogstones, over three hundred (300) have been recovered from ORA-83 totals more than the sum of all other cogstones found in Southern California, the primary (and assumed to be only) area in the United States where they are found in great quantities. These objects, long considered to have ceremonial significance (Eberhart 1971), indicate by their sheer volume, that CA-Ora-83 could have been the ceremonial center where, in all probability, most if not all, of the cogstones in southern California were produced....The boundaries of CA-Ora-83, as shown on the attached maps, were determined to be the limits of the most concentrated and least disturbed area of the site as well as the most significant by the research of Butzbach (1975) and Carter and Howard (1975). The designated area appears to be the primary locus of the Cogstone Complex with periphery areas (outside of the nominated area) containing only scattered artifacts and very little undisturbed subsurface material."* (PCAS 1980).

Further, in 1994, the boundaries of a village site complex as listed in the sacred lands file with the Native American Heritage Commission was expanded beyond the national registry area to include the entire Bolsa Chica Mesa. The site has been subject to several archeological investigations in the past, and each one has yielded significant archeological resources, so significant that the site is of local, national, and international significance. The site has been documented to support a village, and a regional religious area that predates the Egyptian pyramids and shows more than 9,000 years of continuous settlement. While these past investigations have unfortunately removed human remains, burial sites, and extremely rare and valuable ceremonial objects, the site is still considered a significant and sacred site. It is considered a sacred landscape by the Native American tribes, regardless of the presence or absence of underground archeological deposits.

There are 11 documented pre-historic areas of archeological deposits on the Bolsa Chica Mesa, suggesting that the prehistoric village and ceremonial site was vast, and that there are connections between these deposits. The AMMP summarizes: "The eleven Bolsa Chica Mesa sites present a full range of activity areas including short and long-term residential bases and limited use areas from the Millingstone through the very early Late Prehistoric Horizons (Wallace 1955). They are not single period, single use sites associated with the Cogged Stone Site but rather provide a richer, more complex view of life on Bolsa Chica Mesa from about 9,500 to 1,200 years ago. Collectively, these sites provide a picture of environmental, economic, and social change on Bolsa Chica Mesa over at least an 8,000-year period."

Historic topographic maps indicate that the Bolsa Chica Mesa stretches across the Windward site, overlooking the wetlands. This is important because the local Native American tribes have

provided ethnographic evidence (through Coastal Commission Tribal Consultation processes) that indicates that religious sites were commonly placed on the tops of bluffs overlooking water. This site, as is known from past project impacts, contained about 160 human burials on the western side of this mesa. The eastern side (the current subject of this grading CDP) is a continuation of the mesa overlooking the water. While it is true that significant archeological excavation has taken place in the past, the fact that some ancestors are no longer located on the site (and human burials were reburied elsewhere) does not change the fact that the site is sacred.

It is concerning that the City, in response to comments brought up in consultation, responded: "the portion of ORA-86 that has been scientifically investigated since 1999 [is] shown to be nearly void of cultural resources" since former archeological preliminary investigations also came to that conclusion, and yet significant cultural resources were found during project development.

Significant excavation of burials on the mesa occurred from 1990-1993, again from 1999-2002, and again from 2006-2007. In 1992, the archeologist representing the developer of the Bolsa Chica Mesa at the time provided a letter indicating that excavation of ORA-85 was complete, only to find 32 human burials several years later (in 2006). Again, in 2004 the archeologist representing the developer provided a letter indicating that excavation of ORA-83 was 97% complete, only to find an additional 40 human burials between 1999-2002. The housing development at the cogged-stone site (Hearthside homes, today known as Brightwater) was approved in 2005 (CDP 5-05-020) and during additional grading in 2006, an additional 75 human burials were found and excavated. The archeologist stated that this occurred because the boundaries of ORA-83 had not been properly mapped during initial investigations, and the boundary was revised three or more times over the years, enlarging the area known as ORA-83. (In 2006, 70% of the burials were found outside of the ORA-83 boundaries.) In total, approximately 160 human burials were found, most no more than 100 yards from the subject site. Because the site boundaries of ORA-83 were not clear prior to grading and excavation, it is reasonable that burials could extend onto the subject project site of the mesa because ORA-86 boundaries may not have been adequately defined, and it is possible the ceremonial areas could be far larger than the 1980 National Register listing anticipated. (It should be noted that initial investigations of ORA-86 and auger holes were limited to 100 cm in depth. Sterile soils can be as deep as 152 cm in depth in this area. The proposed grading project would expose sterile soils down to a maximum depth of about 152 cm; however, a cultural depression and resources in this area were located 9 meters below the ground surface, about 13 times deeper than initial investigations.)

The AMMP states: "*Archaeological site CA-ORA-86 is a younger northeastern extension of National Register eligible site CA-ORA-83, The Cogged Stone Site. The site was used approximately 2,000 years ago, while the Cogged Stone Site was settled nearly 10,000 years ago and was essentially abandoned by the time Herring's Site 'E' was occupied. Due to this association, any remnants of the younger site are significant and unique archaeological resources. In addition, the Cogged Stone Site and associated Bolsa Chica Mesa sites are listed as 'Sacred Lands' by the Native American Heritage Commission (NAHC) and are considered 'Tribal Cultural Resources' (TCRs). Exemplary efforts are therefore being taken to insure that if portions remain of the original site which were previously undetected, then these will be*

located through Controlled Archaeological Grading prior to issuance of a project grading permit (CR-2).” The AMMP suggests that the controlled grading itself will protect the Tribal cultural resources as sacred lands and will protect the Nationally registered areas containing ORA 86. In past Commission consultation, affected Native American tribes have indicated that grading and further disturbance of archeological deposits on the site is detrimental to the protection of the lands as sacred lands. This point was made by tribal members to the City in communications, “As relayed in the prior comments, the proposed grading excavations will cause a severe adverse effect on a NRHP (Nationally Registered Historic Property) site” (Morales email to the City, 2.22.21).

The submitted AMMP and the City staff reports do not consider the project impacts to the sacred land, and do not consider the proposed project’s impact to the nationally registered site (already documented as significant resources, which may not be consistent with resource protection policies of the LCP, which specifically require *the preservation of significant archaeological and paleontological resources in the Coastal Zone and protect[ion] to the maximum extent feasible, significant archaeological, paleontological and historic resources in the Coastal Zone.* (Land Use Plan, Coastal Element Section C.5, Historic and Cultural Resources.) Because the site is listed on the National Register, it is considered BOTH a significant archeological site AND an historic resource.

The City acknowledged this fact and stated: “It should be noted that ORA-83 was also nominated and deemed eligible for listing on the National Register of Historic Places at the time the archaeological grading occurred. The nomination does not preclude implementation of this mitigation program on the site.” While the nomination does not preclude implementation of development or grading, approval of the project is not consistent with the LCP policies that do require protection, to the maximum extent feasible, of both archeological and historic resources that are significant. The point of the national register listing is that the resources have already been demonstrated to be significant, and while ORA-83 was largely destroyed during grading and development and impacts to ORA-86 occurred without a coastal development permit, that does not necessitate approval of removal or destruction of the remaining portions of the national registered historic property, when the LCP requires preservation. Further, the LCP requires preservation of *cultural and historic resources*, which includes the sacred lands and tribal cultural landscape. The AMMP does not address the protection of the sacred lands as a tribal cultural resource, and the City approved project does not require mitigation for these proposed impacts, consistent with policy C.5.1.2- *Where new development would adversely impact archaeological or paleontological resources within the Coastal Zone, reasonable mitigation measures to minimize impacts shall be required.*

The EIR adopted by the City in 2017 (Mitigated Negative Declaration No. 16-003) indicated that the project would cause a substantial adverse change in the significance of a historical resource as defined in §15064.5 and cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5. The project could also possibly disturb human remains, but some measures could mitigate these impacts. The EIR proposed mitigation measures to address these impacts, which include development of the subject AMMP, monitoring, and controlled grading, among other measures. The EIR was intended to address the impacts that a residential housing project would have on the site, and as such, controlled grading

was proposed as a mitigation measure; however, to date there has been no analysis of the impacts that the controlled grading will have on the site as a significant historic resource and a significant archeological resource. The proposed project may cause a substantial adverse change in the significance of the historical resource that cannot be mitigated adequately through the proposed mitigation measures, and may require additional mitigation or preservation methods.

3. *The City-approved AMMP raises questions regarding adequate mitigation and preservation measures and consistency with LCP policies which require mitigation of impacts to existing cultural resources and efforts to protect existing cultural resources in situ or in permanent open space.*

The 2018 staff report for the Windward Specific Plan states: “Given the rich cultural heritage of the Bolsa Chica Mesa, it becomes clear that any residential use at the site must not be allowed if it would adversely impact any culturally significant resources that remain on the site. Typically, an open space designation is most protective of a cultural resource area.”

The AMMP is dismissive of ORA 86’s status as a nationally registered site, stating that it may represent a later period of occupation. However, resources from a later period of occupation may still represent a significant resource, according to an AMMP peer reviewer: “Importantly, this last Ora-86 site area seemingly represent the unique archaeological remnants of the C-14 dated use (or very brief occupation) of the mesa only about 2,000-1,200 years ago. It is the only area of the mesa recognized with any archaeology heritage remnants of the “Late Prehistoric” culture era. (Indeed, this may represent an uniquely early moment represented with the “Shoshonean Intrusion Theory,” when proto-Tongva/Juaneno/Luiseno speakers of the Shoshonean language family first came west to occupy the region and split apart the [prior occupying] proto-Chumash/Kumeyaay speakers of an Hokan language family.”).

While the AMMP describes the two ORAs (83 and 86) as separate, and they may be, that doesn’t change the fact that a large portion of the Windward site is already considered significant for archeological resources and is already listed on the National Register. As such, the portions of the site that are within the ORA 86 boundaries as identified in 1960 and within the boundaries of the national registered site as listed in 1980, should already be subject to the protection policies of the LCP that require: ***appropriate mitigation measures to ensure that archaeological/cultural resources will not be adversely impacted. These mitigation measures shall be contained within a Mitigation Plan. The Mitigation Plan shall include an analysis of a full range of options from in-situ preservation, recovery, and/or relocation to an area that will be retained in permanent open space. The Mitigation Plan shall include a good faith effort to avoid impacts to archaeological/cultural resources through methods such as, but not limited to: project redesign, capping, and placing an open space designation over cultural resource areas.*** The good-faith effort to preserve these resources in-place through an open-space designation is already applicable, and further efforts including capping the remainder of the site considered significant or a dedication of open space may not have been appropriately considered.

The AMMP allows for insignificant resources (or degraded or damaged resources) to be excavated and reburied off-site, while it would protect resources that are found in-situ and determined to be significant. Primarily of concern, the AMMP specifies that human remains found in-situ would be

considered significant and would be protected in place; however, the site is disturbed due to past site investigations and farming, and according to the AMMP any human remains found on the site that were not in-situ would therefore not be protected in place. Additionally, any ceremonial or religious artifacts found but associated with human remains would not be considered for protection in place (or if these types of items are to be preserved in place, that is not made clear in the plan). The plan states:

Should the resource be determined to be significant, avoidance and preservation in place shall be the preferred treatment. In situ preservation procedures for types of archaeological resources which may be discovered include known significant items such as:

- in situ human remains; house pits, hearths, artifact caches, and midden deposits*
- ceremonial or religious artifacts if associated with human remains such as:*
- coggled stones, pipes, crystals, pigments, incised stone, beads, bone/shell ornaments*

One Peer reviewer suggests:

*possession is not illegal if it is allowed by an agreement reached pursuant to subdivision (l) of PRC Section 5097.94 or pursuant to Section 5097.98. The agreement is a treatment and reburial plan that is signed by the Most Likely Descendant, the archaeologist, and the landowner. **The Plan should state that if human remains are found, a treatment and reburial plan will be negotiated and implemented.***

If human remains are found, a treatment and reburial plan may not be desired by the affected Native American MLD and would be in contrast to the policies of the LCP which require “Good Faith Efforts” to maintain and protect resources in place. Therefore, the plan should **not** state that if human remains are found, a treatment and reburial plan will be implemented.

There is no discussion in the AMMP of what will occur when or if there are conflicting opinions of the consulting Native American tribes regarding treatment methods. If preservation and protection of the resources is the preferred alternative, will the treatment method be pre-determined to be preservation in place in the absence of a consensus?

The AMMP does not discuss the requirements for Native American monitoring of the site. How will the monitoring schedule be developed to include the three tribal groups? Will there be a fair and equitable rotation schedule between the tribal groups or will a minimum of one monitor per group be present on the site each day of grading?

4. *The City’s approval leaves questions regarding adequate consultation with affected Native American Tribes on treatment and mitigation plan for the sacred lands, as required by the LCP.*

The LCP requires: ***The subsequent mitigation shall be prepared in consultation with the Native American Heritage Commission (NAHC), Native American tribal group(s) that have ancestral ties to the area as determined by the NAHC, and the State Historic Preservation Officer, subject to peer review.***

The AMMP states: “The document is further intended to conform with requirements of the 2017 CCC Tribal Consultation Policy.” (The Commission’s Tribal Consultation Policy was approved in August 2018, not in 2017.) The Tribal Consultation Policy allows for the Commission to

conduct an independent review and not rely on other agencies' conclusions, including review of projects on appeal.

The 2018 Tribal Consultation Policy acknowledges that Tribal Cultural Resources can be more apparent or more broad than just archeological deposits: "Tribal Cultural Resources will qualify as archeological, paleontological, visual, biological, or other resources that the Commission is tasked with protecting pursuant to the Coastal Act." In this case, consultation with Native American Tribal members indicated that concerns were raised regarding the project's impact to Tribal Cultural Resources associated with the sacred landscape, beyond the potential for further undiscovered archeological deposits.

The tribal comments received from each group were not attached to the City's record. It is not clear if all tribal concerns have been adequately addressed per the City's record. However, it is clear that some consultation took place. Other than copies of emails from the City and the Archeologist reaching out to the affected Tribes, there is no summary of the concerns raised during verbal consultation. There is a formal response attached to the AMMP to the concerns raised by the Gabrielino-Tongva Band of Mission Indians, in which the City comments and the AMMP still do not address the concern of impacts to the sacred landscape as a result of the grading.

The conclusion of consultation generally occurs when: "The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists to a tribal cultural resource; or A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code § 21080.3.2, subd. (b))." There is no determination in the AMMP or the City's response that this point was reached after the Gabrielino-Tongva Band of Mission Indians requested additional consultation to discuss alternatives to grading and mitigation measures for Tribal Cultural Resources in February 2021. Staff is unable to determine if Tribal Cultural Resources were considered in the consultation process, or if the language of the AMMP and the status of archeological deposits was the only point of discussion in the consultations. The tribal concern regarding the proposed controlled grading impacts to Tribal cultural resources as sacred lands and a Nationally registered site does not appear to have been addressed prior to the conclusion of consultation. The point of conclusion of the consultation (the parties agree to measures to mitigate or avoid a significant effect or a conclusion that a mutual agreement cannot be reached) does not appear to have been reached, as there is no discussion in the AMMP regarding the impacts to the sacred land and there are no additional proposed mitigation measures to address the impacts on the sacred land.

5. *The City's approval does not address the project's consistency with other resource protection policies of the LCP that prevent landform alteration, visual impacts, and protection of sensitive biological resources (which are policies that are relevant to the site as a sacred landscape).*

Biological and visual policies of the LCP:

Goal C4

Preserve and, where feasible, enhance and restore the aesthetic resources of the City's coastal zone, including natural areas, beaches, harbors, bluffs and significant public views.

C 4.1.1

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 public views to and along the ocean and scenic coastal areas. (J-C 7, I-C 8, I-C 14)

C-7 1.3 incorporates the same requirement as Coastal Act Section 30240: that *development adjacent to ESHA be sited and designed to prevent impacts which would significantly degrade the ESHA and that the development be compatible with the continuance of the ESHA.*

The City's approval does not address the visual qualities of the open space area and does not address the proposed project's potential impacts to the visual qualities of the area.

The submitted plans shows that there is a line of established trees along the western side of the Windward site. Some of these trees will be protected in place, and some will be removed during grading. There is no discussion of the trees' potential to support habitat in the City's approval. It is not clear that a biological survey was conducted assessing the potential habitat. There are no conditions for appropriate habitat buffers, construction periods outside of the nesting season, impacts of the construction noise on nesting birds, etc. This is relevant as a line of trees to the East of the Windward site containing Eucalyptus trees is considered ESHA in the Windward Specific Plan, "abundant habitat is present in the vicinity including wetlands and important groves of eucalyptus trees used by raptors for nesting and roosting which have been identified as environmentally sensitive habitat areas (ESHAs)." For the line of trees along the western side of Windward, there was no assessment of the status of the trees as ESHA in the findings of the City's approval.

Additionally, the specific plan requires specific assessments of potential burrowing owl habitat and southern tar plant prior to construction or grading, which are habitats that would rise to the level of ESHA. The City's findings do not address these biological resources and do not address the potential impacts.

Controlled grading would destroy burrowing owl habitat (if present on the site) and would completely destroy the tar plant vegetation (if present on the site). There are no conditions to avoid these resources or provide mitigation if impacts cannot be avoided in the City's approval.

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
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LONG BEACH, CA 90802
(562) 590-5071
SOUTHCOAST@COASTAL.CA.GOV

**APPEAL FORM****Appeal of Local Government Coastal Development Permit****Filing Information (STAFF ONLY)**

District Office: South Coast

Appeal Number: A-S-HNB-21-0031

Date Filed: 5/5/21 5PM

Appellant Name(s): Adrian Morates

APPELLANTS

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review the appeal information sheet. The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's contact page at <https://coastal.ca.gov/contact/#/>).

Note regarding emailed appeals. Please note that emailed appeals are accepted **ONLY** at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the South Coast district office, the email address is SouthCoast@coastal.ca.gov. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's contact page at <https://coastal.ca.gov/contact/#/>.

Appeal of local CDP decision

Page 2

1. Appellant information¹

Name: Adrian Morales

Mailing address: P.O. Box 693 San Gabriel 91778

Phone number: 626 - 209- 7642

Email address: moralesadrian66@yahoo.com

How did you participate in the local CDP application and decision-making process?

☐ Did not participate ☒ Submitted comment ☐ Testified at hearing ☐ Other

Describe: _____

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: _____

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: _____

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

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Local government name:	City of Huntington Beach
Local government approval body:	City Council, Board of Supervisors, Planning Commission
Local government CDP application number:	20-016
Local government CDP decision:	<input checked="" type="checkbox"/> CDP approval <input type="checkbox"/> CDP denial
Date of local government CDP decision:	04/19/2021

Describe: Archaeological grading of 2.5 acres in connection with the Windward Project

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be from a notebook or a standard sheet of stationery. There is no handwriting or other markings on the page.

Coastal Commission
Exhibit 4
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Page 4

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., the applicant, other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook page.

Coastal Commission
Exhibit 4
Page 4 of 14

Appeal of local CDP decision

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5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Adrian Morales


Signature

Date of Signature 05/05/2021

5. Representative authorization

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☐ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

§ If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

§ If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

The Windward Residential Project will definitely cause a substantial adverse effect to the NRHP property, Tribal Cultural Resources, and a Unique Historical Resource. The project's Environmental Process and the proposed grading plan (AMMP) has not addressed or complied to the PRCs listed below. The grading documents AMMP was not created in our interest or through any agreement as defined in CCR 15064.5 (d), rather it was presented to the tribe for review by the applicant's consultant, not the LEAD AGENCY. Also to mention that the project APE has not formally been evaluated as a mitigation measure as defined in PRC 21083.2 (d) for this project specific.

PRC 5024.1 (a) - The CA Register is established and is an authoritative guide in CA to be used by state and local agency's to identify Historical resources and to indicate what properties should be protected from substantial adverse changes.

(b) - CA ORA 86 already meets the criteria

(c) - CAORA 86 already meets the criteria

(d) - The CA Register shall include the following:

(1)- CA properties formally determined eligible for, or listed in, the NRHP.

PRC 5024 (f) - Each state agency shall submit to the State Historic Preservation Officer for comment documentation for any project having the potential to effect historical Resources listed in or potentially eligible for inclusion in the NRHP or registered as or eligible for registration as a state historical landmark.

PRC 5024.5

(c) - Each State agency shall maintain written documentation of the officers concurrence with proposed actions which would have an effect on a historical resource on the master list.

PRC 5020.1

(k) - Local register of historical resources means a list of properties officially designated or recognized as historically significant by a local government pursuant to a local ordinance or resolution.

PRC 21074 (a) - Tribal cultural resources are either of the following

(1) - sites, features, places, cultural landscapes, sacred places, and objects with cultural value to CA Native Americans.

(A) included in the CA Register of Historical Resources (CA ORA 86)

(B) included in a local register of historical resources as defined in subdivision (k) of Section 5020.1

(2) A resource determining by the lead agency to be significant pursuant to the criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a CA Native American tribe

(b) A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent geographically defined in terms of the size and scope of the landscape.

(c) A historical resource described in Section 21084.1, a unique archaeological resource as described in subdivision (g) of Section 21083.2, or a non-unique archaeological resource as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).

PRC 21084.1- A project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment.

CCR 15064.5 - Determining the Significance of Impacts to Archaeological and Historical Resources

(a) The term historical resource shall include the following:

(1)- A resource listed on the CA Register of Historical Resources as defined in PRC 5024.1

- (2) - A resource included in a local register of historical resources as defined in PRC 5020.1(k)
- (3) - Any object, building, structure, site, area, place, record, or manuscript determined to be significant in the agricultural, engineering, scientific, economic, architecture, educational, social, political, military, or cultural annals of California may be considered an historical resource. Generally, a resource shall be considered by the LEAD AGENCY to be historically significant if the resource meets the criteria for listing on the CA Register of Historical Resources defined by PRC 5024.1
- (3) (A), (B) and (C) all apply to ORA 86
- (b) - A project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment.
- (c) - CEQA applies to effects on archaeological sites
- (1) - When a project will impact an archaeological site, the LEAD AGENCY shall first determine whether the site is an historical resource, as defined in subdivision (a)
- (2) - If a LEAD AGENCY determines that the archaeological site is an historical resource, it shall refer to the provisions of Section 21084.1 of the PRC, this section, Section 15126.4 of the guidelines, and the limits contained in Section 21083.2 of the PRC do not apply.
- (d) - When an initial study identifies the existence of, or the probable likelihood, of Native American human remains within the project, a LEAD Agency shall work with the appropriate Native Americans as identified by the NAHC. The applicant may develop an agreement for treating the human remains and items associated items

PRC 15126.4- Mitigation Measures

- (b) Mitigation Measures related to Impacts on Historical Resources
- (3) Public agencies should
- (A)

PRC 21083.2 Determination of projects that may have significant effects to unique archaeological resources

- (a)
- (b) Preservation efforts of unique historical resources
 - (1)
 - (2)
 - (4)
- (d) Mitigation Excavation Evaluations
- (g) Unique archaeological resources means an archaeological artifacts, object, and site
 - (1)
 - (2)
 - (3)

COASTAL DEVELOPMENT PERMIT NO. 20-016 (WINDWARD ARCHAEOLOGICAL
GRADING AND MONITORING)

4. Grounds for Appeal

Issues raised by appellants of LCP 19-004, Windward Archaeological Mitigation and Monitoring Plan allowing archaeological grading of the same 2.5 acres that were filed in 2019 were not resolved because the developer withdrew the CDP application. We believe that the objections raised by Patrica Martz, Rebecca Robles, Alfred Cruz, Jr. and Coastal Commissioners Padilla and Uranga are still valid with respect to this CDP application. We summarize them below and have also attached the original appeals to this document.

Alfred Cruz/Rebecca Robles Appeal and Pat Martz's Appeal

The archaeological grading and monitoring plan that the City of Huntington Beach approved is inconsistent with the Windward Specific Plan and the Huntington Beach Local Coastal Plan. Specifically with the Historic and Cultural Resources Section, C5.1.4(c) "The State Office of Historic Preservation and the Native American Heritage Commission shall review the research design." and (d) "The research design shall be developed in conjunction with affected Native American groups." The site to be graded is listed on the California Native American Heritage Commission's Inventory of Sacred sites as well as the National Register of Historic Places. Past Coastal Commission permits have resulted in the destruction of the majority of the archaeological site complex known as CA-ORA-83/86/144. Preservation of the remaining portions of this site complex is of great concern to the Gabrieleno/ Tongva and other local Native American descendants and should not be subject to further impacts.

Commissioners Padilla and Uranga Appeal

1. CDP 19-004 is inconsistent with certified Huntington Beach Local Coastal Program regarding cultural resources C.5 (C.5.1.1 - C.5.1.5)
2. Anticipatory Destruction/Piecemealing: Because the Windward Specific Plan is not yet operative, there is no potential for residential development at this time, and therefore, archeological grading is unnecessary until or unless residential development becomes a possibility. The grading and monitoring activities approved by the City are effectuated via the City-approved document titled Archaeological Mitigation and Monitoring Plan (AMMP), Windward Residential Project. The AMMP is intended to establish the procedures to conduct controlled archaeological grading across the western half (2.5 acres) of the subject property. It is the western half that, under the Windward Specific Plan, that, in the event the specific plan becomes operative (as that term is defined in the specific plan), could potentially be allowed residential development. The Windward Specific Plan has not become operative yet.
3. A Sacred Site and a National Register Site containing Significant Cultural/Tribal Cultural Resources will be impacted. The Bolsa Chica area in general is significant due to the

extensive presence of environmentally sensitive habitats and wetlands and due to the significance and extent of Native American cultural resources that have been discovered there. The Bolsa Chica Mesa particularly is an area known for its significant cultural value dating back as far as 9,000 years before present time, based upon pre-historic human use, including manufacturing and ceremonial use of unique coggled stone artifacts, numerous archaeological features and artifacts, and as a Native American cemetery. The Mesa contains several mapped archaeological sites; CA-ORA-83, -85, -86 and -144. Many archaeologists believe that ORA-86 on the subject Windward site is the northeastern extension of ORA-83. According to the State Historic Preservation Officer, as well as multiple archaeologists and Native Americans, these separate archaeological sites are a part of a large prehistoric village complex that occupied the Bolsa Chica Mesa from 9,000 to 2,000 years before present time. Additionally, the site has recently been designated as a Sacred Site by the Native American Heritage Commission. There was no discussion of the impact that archeological grading would have on the status of the land as a Sacred Site.

4. Cumulative impacts must be considered. Much of the upland value of the mesa and nearby area as coastal resources have been lost to residential development. Because the early CDPS issued for archaeological work on the Bolsa Chica Mesa allowed full excavation and recovery of all cultural resources much of the Sacred and National Register Site has been damaged and/or erased. ORA-83 (which, as registered, includes ORA-86) is known as the coggled stone site because these unique stones were believed to have been manufactured here, the site is actually much more complex and supported permanent human habitation as well as a sacred burial site or Native American cemetery. On ORA-83 and ORA-85 alone approximately 350 pre-historic cultural features were discovered, including approximately 160 human burials and 31 animal burials, 25 semi-subterranean structures (house pits with hearths, storage sheds, and ceremonial structures with a dance floor), fire affected rocks and other rock artifacts, shell and rock cairns, and well over 100,000 beads, charm stones, tools and other artifacts were discovered. More than 70% of other Native American and animal burials and prehistoric features that were discovered on the Bolsa Chica Mesa were found outside of the boundaries of the previously recorded archaeological sites.
5. Preservation in situ is not required. The City is not clear that preservation in situ is the preferred alternative for any significant resources present on the site. There is little assurance that preservation in place would occur. Without such assurance the CDP approved by the City cannot be found to be consistent with the cultural resource protection policies of the certified LCP, regardless of the resource's status or eligibility for listing. Although the Windward Specific Plan language requires preservation in situ where appropriate and feasible that language does not diminish that the primary goal is preserving in place, including capping or avoiding development near and over the resource left in place. Moreover, no evidence that preservation in situ is not appropriate or feasible is included in the AMMP. Currently, the AMMP makes little distinction as to whether preservation in place or excavation and removal would occur upon discovery of significant cultural resources, and limits preservation in place only for resources eligible for state listing (after significant testing).

6. Applicants have already been permitted to profit from the destruction of the Bolsa Chica Mesa Sacred and National Register Site and violations of the Coastal Act. It should be remembered that the current applicant and property owner, Signal Landmark, is the same applicant and land owner/permittee who developed 347 homes on the adjacent site known as Brightwater. It was during work on that site that the Native American cemetery was discovered and destroyed. Due to earlier CDPs for archaeological work that allowed recovery and removal. And in addition, it bears noting past actions at this site by this archaeologist include: subsurface archaeological work conducted without benefit of a valid CDP during which significant cultural resources were discovered and completely removed from site (prehistoric house pit and related resources).

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your **reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal, however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The archaeological grading and monitoring plan that the City of Huntington Beach approved is inconsistent with the Huntington Beach Local Coastal Plan and the Windward Specific Plan.

It is also not in compliance with the Historic and Cultural Resources section of the Huntington Beach Local Coastal Plan. Specifically with C5 1.4 (c) "The State Office of Historic Preservation and the Native American Heritage Commission shall review the research design" and (d) "The research design shall be developed in conjunction with affected Native American groups."

This is important because the archaeological remains to be graded are listed on the California Native American Heritage Commission's Inventory of Sacred sites as well as the National Register of Historic Places. Past Coastal Commission permits have resulted in the destruction of the majority of the archaeological site complex known as CA-ORA-83/86/144. Preservation of the remaining portions of this site complex is of great concern to the Gabrieleno/ Tongva and other local Native American descendants and should not be subject to further impacts.

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

June 17, 2019



**APPEAL FROM COASTAL PERMIT
 DECISION OF LOCAL GOVERNMENT**

RECEIVED
 South Coast Region

JUN 17 2019

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Commissioners

301 East Ocean Blvd., Suite 300

Long Beach, CA 90802 (562) 590-5071

Commissioners Padilla & Uranga CALIFORNIA COASTAL COMMISSION

SECTION II. Decision Being Appealed

1. Name of local government: City of Huntington Beach
2. Brief description of development being appealed:
 Archaeological Mitigation & Monitoring Plan allowing archaeological grading on the 2.5 acre western portion of the property known as the Windward site on the Bolsa Chica mesa.
3. Development's location (street address, assessor's parcel no., cross street, etc.): 5 acre property at the southeast corner of the intersection of Bolsa Chica Street and Los Patos Avenue (south of the City owned property with public trail), Huntington Beach, Orange County (APN: 163-361-10)
4. Description of decision being appealed:
 - a. Approval: no special conditions: _____
 - b. Approval with special conditions: XX
 - c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-5-HNB-19-0045

DATE FILED: 6/17/19

Attachment to Appeal of local CDP decision, Application # 20-016

3. Identification of Interested Persons

Ed Mountford, Cornerstone Consulting, 18685 Main St, Huntington Beach, CA 92648

Signal Landmark, 6 Executive Cir STE 250, Irvine, CA 92614

Rob Wood, Environmental Planner, NAHC, 1550 Harbor Blvd, Suite 100 • West Sacramento, CA 95691

Julianne Polanco, State Historic Preservation Officer 1725 23rd Street Suite 100 Sacramento, CA 95816

ATTACHMENT NO. 1

FINDINGS AND CONDITIONS OF APPROVAL

COASTAL DEVELOPMENT PERMIT NO. 20-016

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Zoning Administrator finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15304 of the CEQA Guidelines, because the project consists of minor private alterations in the condition of land that does not include removal of healthy, mature, or scenic trees. Coastal Development Permit No. 20-016 is necessary to implement archaeological grading activities required in mitigation measures CR-1 through CR-6 of Mitigated Negative Declaration No. 16-003. Mitigated Negative Declaration No. 16-003 was adopted by the City Council on May 20, 2018 in conjunction with the Windward Specific Plan, which ultimately allows the project site to be developed with a multi-family residential subdivision. Prior to development of the project site, controlled archeological grading is required to ensure that all earth movement associated with development of the site that has the potential to uncover cultural resources is appropriately monitored and protected. The controlled archaeological grading will consist of using mechanized equipment where the subsurface soils are removed in approximate 2-centimeter depth increments by a mechanical scraper under the supervision of an Archaeological Principal Investigator. The grading process will be limited to slow excavation in small horizontal areas of individual swaths the width of the mechanical scraper blade providing ultimate control. The archaeologist and Native American Monitors will examine the soils as they are exposed. Grading efforts will continue until sterile soils are encountered. If resources are found during the controlled grading activities, work would be stopped and a Research Design and Recovery/Preservation Plan will be prepared pursuant to mitigation measures CR-1 to CR-6 of MND No. 16-003 and the Windward Specific Plan. At the conclusion of the archaeological grading, the applicant/developer shall restore the project site to pre-Coastal Development Permit conditions. Due to the limited nature of the grading activities and requirements to restore the site to pre-Coastal Development Permit conditions, in addition to requirements to implement specific methodology for the controlled grading procedure as outline in the Archeological Monitoring and Mitigation Plan, the project would not have a significant effect on the environment and is exempt from CEQA.

FINDINGS FOR APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 20-016:

1. Coastal Development Permit No. 20-016 to permit archaeological grading and monitoring activities on a vacant 2.5-acre portion of an approximately 5-acre property located in the Coastal Zone conforms with the General Plan, including the Local Coastal Program in that the project is consistent with the Coastal Element Historic and Cultural Resources Objective C 5.1 to identify and protect, to the maximum extent feasible, significant archaeological, paleontological and historic resources in the Coastal Zone. The project involves controlled grading for the purpose of determining the presence and significance of any archaeological, paleontological, or cultural resources prior to development of the site pursuant to the Windward Specific Plan. The proposed Archaeological Monitoring and Mitigation Plan, which specifies the methodology for the archaeological grading activities covered under this coastal development permit, will ensure that cultural resources on the site are appropriately identified, monitored, and protected in accordance with the mitigation measures of Mitigated Negative Declaration No. 2016-003 adopted in conjunction with the Windward Specific Plan (SP16).

The Windward Specific Plan requires preservation in place of discovered resources, including capping or avoiding development near and over the resource left in place, where appropriate and feasible.

2. Coastal Development Permit No. 20-016 to permit archaeological grading and monitoring activities on a vacant 2.5-acre portion of an approximately 5-acre property located in the Coastal Zone is consistent with the requirements of the CZ Overlay District, the base zoning district, as well as other applicable provisions of the Municipal Code. The project is located within the Windward Specific Plan (SP16) and completion of controlled archaeological grading and monitoring pursuant to the criteria of the proposed Archaeological Monitoring and Mitigation Plan must take place prior to the commencement of any residential project development grading activity pursuant to the requirements of the Specific Plan.
3. Coastal Development Permit No. 20-016 to permit archaeological grading and monitoring activities on a vacant 2.5-acre portion of an approximately 5-acre property located in the Coastal Zone can be provided with infrastructure in a manner that is consistent with the Local Coastal Program. Although the project is located in an urbanized area with all necessary services and infrastructure available, controlled archaeological grading and monitoring activities are not required to be supported through new infrastructure.
4. Coastal Development Permit No. 20-016 to permit archaeological grading and monitoring activities on a vacant 2.5-acre portion of an approximately 5-acre property located in the Coastal Zone conforms to the public access and public recreation policies of Chapter 3 of the California Coastal Act because the project will not impede public access, recreation, or views to coastal resources. The project involves controlled grading for the purpose of determining the presence and significance of any archaeological, paleontological, or cultural resources, and to identify and protect those resources to the maximum extent feasible prior to development of the site pursuant to the Windward Specific Plan. In accordance with the Archaeological Monitoring and Mitigation Plan and the conditions of approval, the site is required to be restored to pre-project conditions. As such, no permanent development including changes to existing or planned coastal access or recreation opportunities would occur as a result of the grading activities specified under this coastal development permit. The applicant/developer acknowledges that the limited archaeological studies approved under the Coastal Development Permit shall not be construed as vesting the development standard under the Windward Specific Plan (SP16).

CONDITIONS OF APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 20-016:

1. The project narrative and site plans received and dated February 16, 2019, and Archaeological Monitoring and Mitigation Plan received and dated March 22, 2021 shall be the conceptually approved project.
2. On-site grading and monitoring activities shall adhere to the requirements outlined in Mitigation Measures CR-1 through CR-6 of Mitigated Negative Declaration No. 2016-003.
3. The applicant/developer shall follow the performance standards specified in Sections 3.7.A (Cultural/Archaeological Resources) and 3.7.B (Paleontological Resources) of the Windward Specific Plan (SP 13).
4. At the conclusion of the archaeological grading, the applicant/developer shall restore the project site to pre-Coastal Development Permit conditions.

Coastal Commission
Exhibit 5
Page 3 of 4

5. Fire/Emergency Access and Site Safety shall be maintained during project construction phases in compliance with CFC Chapter 33, Fire Safety During Construction and Demolition. **(FD)**
6. Discovery of additional soil contamination or underground pipelines, etc., must be reported to the Fire Department immediately and the approved work plan modified accordingly in compliance with City Specification #431-92 Soil Clean-Up Standards. **(FD)**
7. Prior to issuance of a Temporary Stockpile Permit, a Stockpile Plan, prepared by a Licensed Civil Engineer, shall be submitted to the Public Works Department for review and approval. **(PW)**
8. Prior to issuance of any grading permit(s) for projects that will result in soil disturbance of one or more acres of land, the applicant shall demonstrate that coverage has been obtained under the Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ) [General Construction Permit] by providing a copy of the Notice of Intent (NOI) submitted to the State of California Water Resources Control Board and a copy of the subsequent notification of the issuance of a Waste Discharge Identification (WDID) Number.

Projects subject to this requirement shall prepare and implement a Stormwater Pollution Prevention Plan (SWPPP) conforming to the current National Pollution Discharge Elimination System (NPDES) requirements submitted to the Public Works Department for review and acceptance. A copy of the current SWPPP shall be kept at the project site and another copy submitted to the City. **(PW)**

9. The name and phone number of an on-field supervisor hired by the developer shall be submitted to the Community Development and Public Works Departments. In addition, clearly visible signs shall be posted on the perimeter of the site every 250 feet indicating who shall be contacted for information regarding this development and any construction/grading-related concerns. This contact person shall be available immediately to address any concerns or issues raised by adjacent property owners during the construction activity. He or She will be responsible for ensuring compliance with the conditions herein, specifically, grading activities, truck routes, construction hours, noise, etc. Signs shall include the applicant's contact number, regarding grading and construction activities, and "1-800-CUTSMOG" in the event there are concerns regarding fugitive dust and compliance with AQMD Rule 403. **(PW)**
10. Wind barriers shall be installed along the perimeter of the site. **(PW)**
11. All stockpiles of soils shall be properly covered, stored, and secured to prevent transport into surface or ground waters by wind, rain, tracking, tidal erosion, or dispersion. **(PW)**
12. The applicant's stockpile/erosion control plan shall abide by the provisions of AQMD's Rule 403 as related to fugitive dust control. **(AQMD Rule 403)**
13. CDP No. 20-016 shall become null and void unless exercised within two years of the date of final approval or such extension of time as may be granted by the Director pursuant to a written request submitted to the Community Development Department a minimum 30 days prior to the expiration date.
14. The Development Services Departments and divisions (Building & Safety, Fire, Planning and Public Works) shall be responsible for ensuring compliance with all applicable code

requirements and conditions of approval. The Director of Community Development may approve minor amendments to plans and/or conditions of approval as appropriate based on changed circumstances, new information or other relevant factors. Any proposed plan/project revisions shall be called out on the plan sets submitted for building permits. Permits shall not be issued until the Development Services Departments have reviewed and approved the proposed changes for conformance with the intent of the Zoning Administrator's action. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Zoning Administrator may be required pursuant to the provisions of HBZSO Section 241.18.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

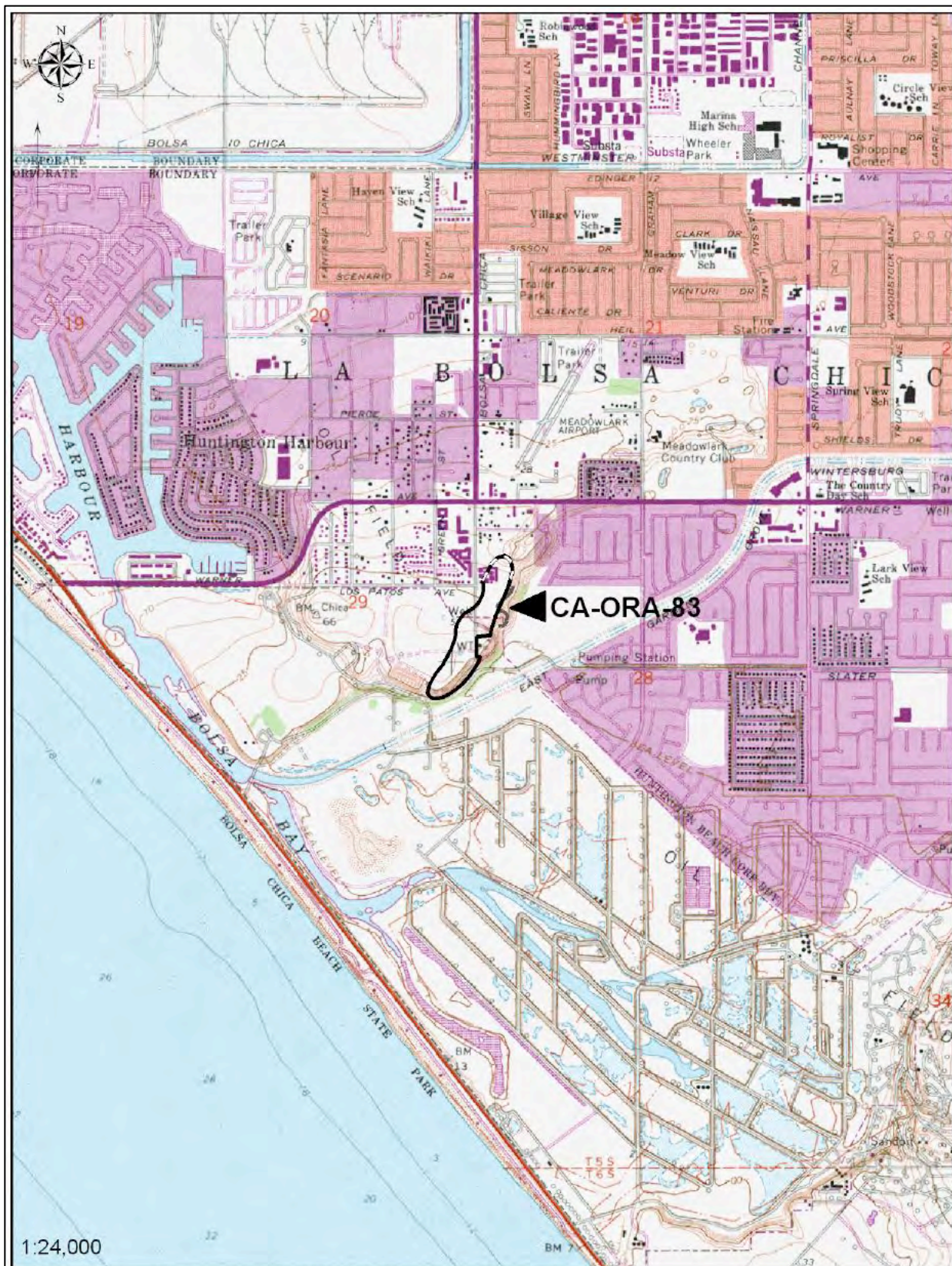
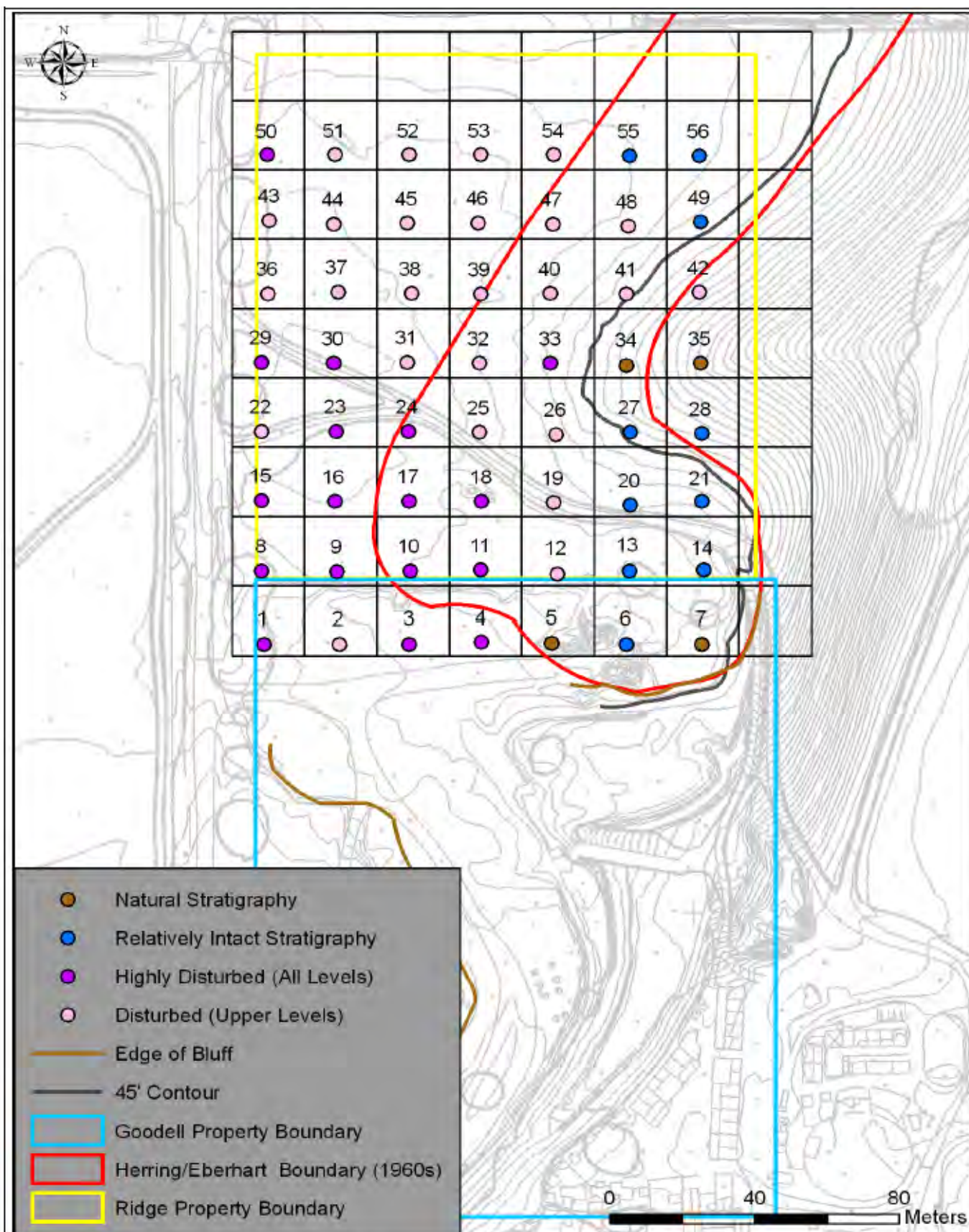
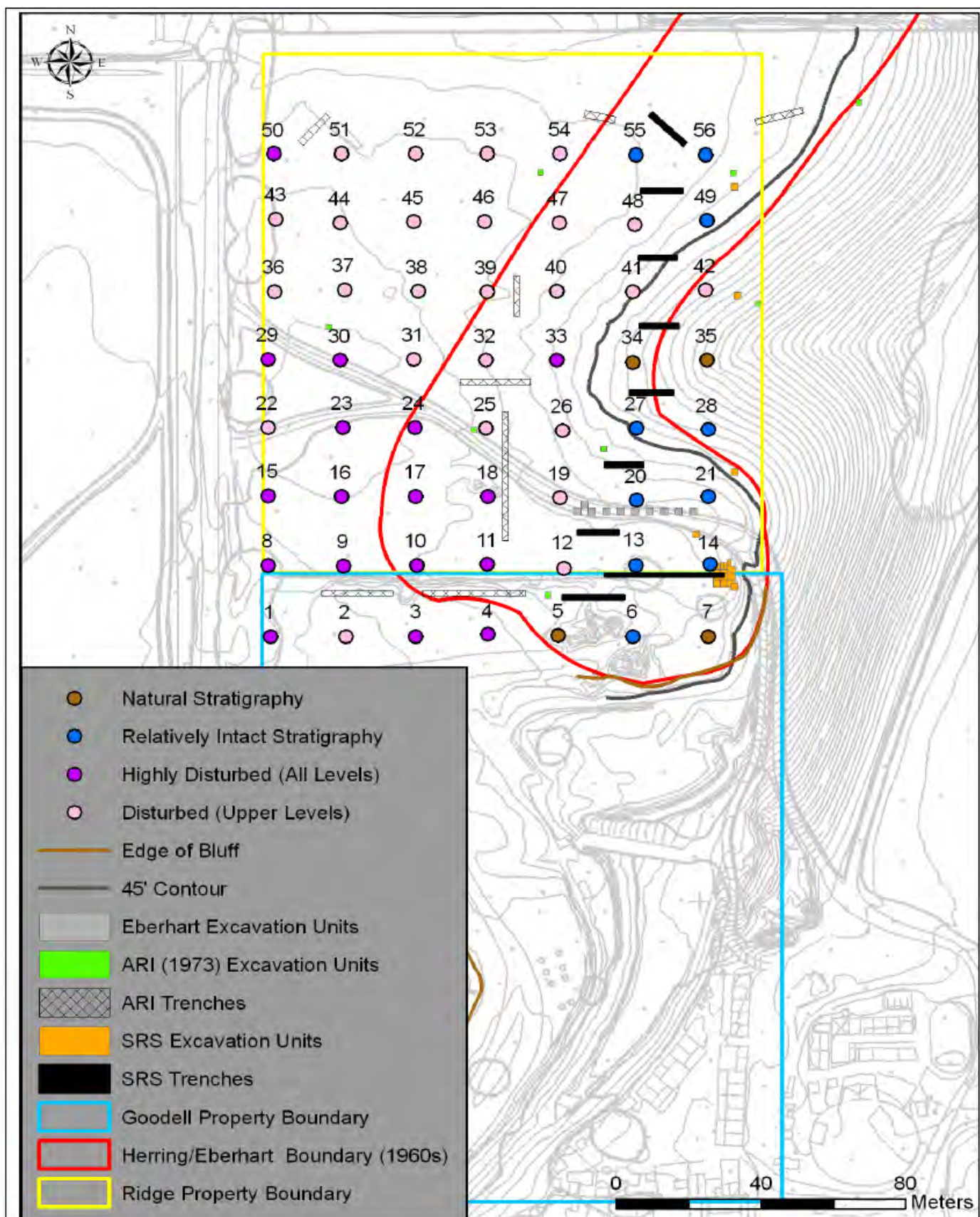


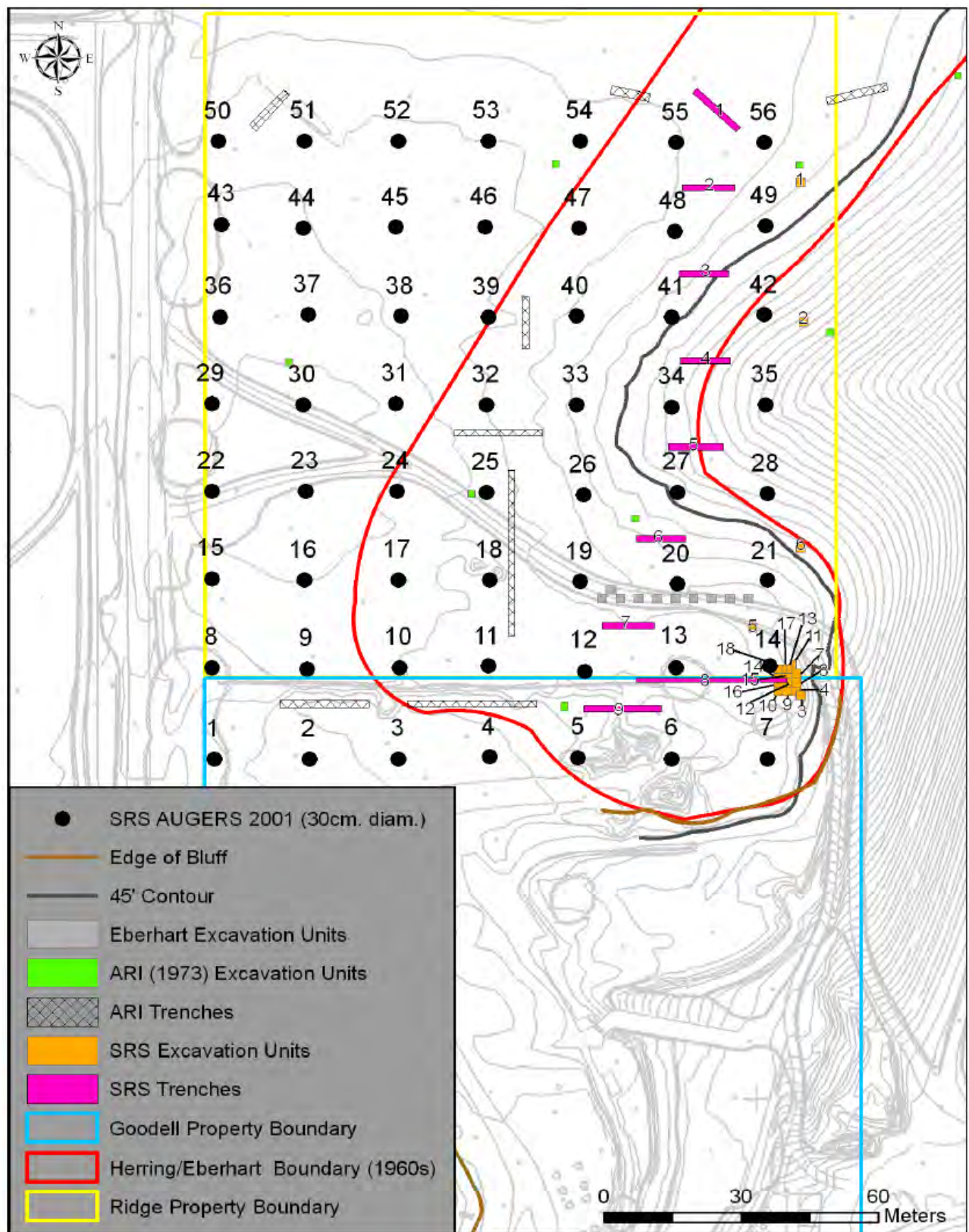
Figure 3. PCAS 1980 National Register Boundaries of CA-ORA-83.
 Source: USGS 7.5' series Seal Beach, CA Quadrangle. Photo Revised 1981.



2001 SRS Grid and Auger Program (30 CM. Diameter) on CA-ORA-86 East and Coded Soils Integrity (Base Map: Stantec 2008).



**2001 SRS Backhoe Trench and Hand Unit Locations Verifying Auger Soil Analyses.
(Base Map: Stantec 2008).**



2001 SRS Hand Unit Expansion Showing Unit Block in the Southeast Corner of the Ridge Property. (Base Map: Stantec 2008).