CITY OF SAN CLEMENTE

Marblehead Coastal Specific Plan

Adopted August 5, 1998

First Amendment Adopted by City Council
Resolution No. 07-56, dated August 21, 2007
City of San Clemente
Marblehead Coastal Specific Plan
SP 95-02, GP 96-01, EIR 95-01

Adopted August 5, 1998

First Amendment
Adopted by
City Council Resolution No. 07-56
Dated August 21st, 2007

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# MARBLEHEAD COASTAL SPECIFIC PLAN
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Chapter 1

INTRODUCTION

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101 Purpose and Objectives

The purpose of this Specific Plan is to implement the City’s General Plan and be responsive to the goal of preserving San Clemente’s unique atmosphere, historical identity, and significant natural features. The objectives of the Specific Plan for the Marblehead Coastal property is as follows:

I. Provide for a variety of land uses within the Specific Plan area capable of generating significant new tax revenues to the City.
   • Provide for regional shopping and local employment opportunities, visitor and community-serving commercial and recreational uses, a range of housing opportunities, preservation of habitat values and sensitive plants using a combination of on-site and off-site measures, and appropriate on-site open space.
   • Provide for planning and design concepts for Marblehead Coastal that are consistent with the amended General Plan.
   • Provide for development standards within Marblehead Coastal adequate to implement planning and design concepts that are consistent with the existing community character and quality.
   • Provide for implementation of the City’s Master Landscape Plan for Scenic Corridors (MLPSC).

II. Promote Regional Commercial Uses to Generate Sales Tax Revenues.
   • Provide an ongoing source of significant sales tax revenue to address the long-term fiscal needs of the City.

Provide a source of revenue adequate to fund the construction of major coastal access improvements, particularly the Interstate 5/Avenida Vista Hermosa Interchange and the extension of Avenida Vista Hermosa to Avenida Pico.
III. Enhance Existing and Future Public Access to the Coast

- To relieve existing and projected traffic congestion levels; to provide necessary coastal access for future inland residential development within the City; and to provide for major circulation system improvements, particularly the Interstate 5/Avenida Vista Hermosa interchange and the extension of Avenida Vista Hermosa to Avenida Pico to the west and the extension of Avenida Vista Hermosa to Calle Frontera to the east, as well as to provide alternative coastal access for inland residents and from the Foothill Transportation Corridor-South.

- To provide for internal public trail linkages, including the trails in Marblehead Canyon and along the bluff face; to enhance access to the coast for inland residents; and to connect proposed visitor-serving commercial and residential uses within Marblehead Coastal to the North Beach Village and other shoreline attractions.

IV. Enhance Future Public Recreation Opportunities along the Shoreline by Providing Upland Recreation and Visitor-Serving Areas Designed to Support Recreational Use of Public Beaches in the City.

- Determine whether Marblehead Coastal is a feasible site for a resort destination facility, considering physical and biological site constraints, competition from other sites with direct beach access and amenities, the desire of hotel owners/managers to develop a hotel on the site, and other factors.

- If development of a resort destination facility on-site is not economically or fiscally feasible, provide for visitor-serving retail and commercial uses on-site within the regional commercial center and the visitor-serving retail site located adjacent to the public park and close to the North Beach Village.

- Provide for day-use commercial and recreation-serving uses that serve residents and visitors in a manner that will complement and support public beach areas.

- Provide for 3.4-acres of public ocean view parks on the site.

- Provide for an 8.6-acre general open space area adjacent to Shorecliffs Middle School and the future Avenida Vista Hermosa Interchange.

- Maintain the City’s tradition of high quality public places.

V. Provide for New or Future Residential Development.

- Concentrate new residential uses within developed areas and in close proximity to existing employment opportunities, consistent with Coastal Act policy, the City of San Clemente General Plan, the South Subregion NCCP/HCP Program, and County of Orange and SCAG policies.

- Provide for new residential development in a manner that will implement the City’s Inclusionary Housing Program, Growth Management Program, and Urban Design Program.
VI. Provide for Viable Long-Term Protection and Enhancement of On-Site Wetlands and Native Vegetation.

- Preserve on-site wetlands to the maximum extent feasible and consolidate isolated wetlands within Marblehead Canyon in order to maximize wetland values and facilitate long-term management of wetland resources.

- Enhance long-term wetland values within Marblehead Canyon by maintaining a reliable source of low-flow water to the wetlands.

- Enhance habitat values by planting higher value wetland vegetation.

- To the extent feasible, restore on-site sage scrub habitats to enhance the value of the wetlands and other preserve native plants, such as the Blochman’s dudleya.

- Complete implementation of the Blochman's dudleya Translocation and Restoration Program consistent with the Coastal Development Permit and this Specific Plan.

VII. Manage On-Site Habitat Resources Restored and Protected as a Part of the Specific Plan.

- Provide long-term funding sources for the management and enhancement of protected and restored habitat resources.

- Utilize project funding sources and mechanisms for long-term management/enhancement of Marblehead Canyon resources, the Blochman’s dudleya Reserve and the wetlands located within the project canyons.

- Establish an overall administrative structure to assure long-term funding for the on-site habitat resources throughout the property.

- Focus mitigation for project impacts to the habitat occupied by the coastal California gnatcatcher on the restoration of on-site habitat that emphasizes preserving and managing large-scale habitat areas on-site.

VIII. Design New Land Uses and Related Infrastructure in a Manner That Will Protect Nearby Marine Resources and Beaches.

- Manage on-site and off-site surface runoff in a manner that will sustain and protect on-site wetland resources designated for preservation and enhancement in the Specific Plan.

- Utilize the preserved and enhanced wetlands to filter surface runoff during low flow periods.

- Provide storm water retention capacity within Marblehead Canyon designed to accommodate peak flows generated by the Marblehead Coastal project, consistent with on-site wetlands restoration and enhancement objectives.
IX. Assure Long-Term Bluff Stability to Protect Public Safety and the Public Access Function of El Camino Real.

- Provide for long-term maintenance of the bluffs to protect public safety.
- Maintain the bluffs to protect the historic function of El Camino Real as a key arterial capable of providing coastal access for residents and visitors and protecting the economic viability of existing and proposed commercial and visitor-serving uses located in the City’s North Beach Village and Downtown areas.

X. Phase new development in step with provision for infrastructure facilities and services needed to support this development, to protect public access to the coast, and to fund long-term management of preserved and restored on-site habitat resources.

102 Applicability and Organization of Specific Plan

The Marblehead Coastal Specific Plan is both a planning and a regulatory document developed to implement the goals, policies, and objectives of the City of San Clemente General Plan and California Coastal Act. The Specific Plan provides guidelines and regulations for land use, circulation, resource preservation, and development processing.

The provisions of this Specific Plan apply to all real property within the area known as Marblehead Coastal, depicted on Exhibits 1-1 and 1-2. The following is an outline of the chapters in this Specific Plan:

- Chapter 1: Introduction
- Chapter 2: Master Plan
- Chapter 3: Design Guidelines
- Chapter 4: Phasing and Implementation
- Chapter 5: Development Standards
- Chapter 6: Development Review and Applications
- Chapter 7: Definitions

103 Relationship to Other City Planning Documents

I. GENERAL PLAN

The General Plan is the fundamental planning policy document of the City of San Clemente. It defines and sets forth rules by which the community will be permitted to develop in the future. It is intended to guide planning, environmental, and land use decisions in the City for the next ten to twenty years. The various General Plan Elements establish goals, objectives, and policies. These Elements include Land Use, Housing, Economic Development, Urban Design, Growth Management, Coastal, and Circulation.

The General Plan establishes what types of land uses will be permitted and where they can be located, allowable densities for development, and the proportional relationship of the built environment to the natural environment. The General Plan also identifies the location and criteria for open space preservation, the basic design and phasing of the circulation system, future infrastructure and public services needs, and methods to protect environmental resources. The City’s physical form and image, economy, and social fabric are greatly influenced by the General Plan. This Specific Plan is a tool for...
the implementation of the General Plan Elements that apply to the Marblehead Coastal area. This Specific Plan has been prepared concurrently with the requested General Plan Amendment (G.P. 96-01) and assumes that it is approved.

II. ZONING ORDINANCE

The City’s Zoning Ordinance is the primary document that implements the General Plan. It provides regulations regarding permitted land uses, development standards, and the development entitlement process for parcels of land within the corporate boundaries of the City of San Clemente. Certain areas of the City (e.g. the Pier Bowl, Marblehead Coastal, Forster Ranch) are zoned SP (Specific Plan). The various adopted Specific Plans for these areas are incorporated into the Zoning Ordinance by reference. They establish regulations applicable to the land within the boundaries of a particular Specific Plan. Likewise, the Zoning Ordinance provides certain regulations that apply within the Specific Plan areas. Each Specific Plan incorporates sections of the Zoning Ordinance by reference.

III. SIGN ORDINANCE

The Sign Ordinance contains regulations pertaining to signs throughout the City. This Specific Plan incorporates the Sign Ordinance by reference. The Regional Serving Commercial zoning district area proposes some signage exceptions.

IV. DESIGN GUIDELINES

The City’s adopted Design Guidelines, which apply to all areas of the City except for the Specific Plan areas, contain recommended architectural and site design guidelines for use by planners, architects, landscape architects, and other design professionals. Their purpose is to implement the General Plan Urban Design Element. Chapter 3 of this Specific Plan contains design guidelines similar in purpose and content to the City’s Design Guidelines, but created for and applicable to areas within Marblehead Coastal.

V. MASTER LANDSCAPE PLAN FOR SCENIC CORRIDORS

The Master Landscape Plan for Scenic Corridors (MLPSC) contains streetscape design standards for all arterial highways identified in the Scenic Highways Element of the General Plan. In a manner similar to the Design Guidelines, this Marblehead Coastal Specific Plan incorporates guidelines (which include minor revisions by City Staff) from the Master Landscape Plan for Scenic Corridors for El Camino Real, Avenida Pico, and Avenida Vista Hermosa.

104 Size and Location of Property

The Marblehead Coastal property is located generally southwest of the Interstate 5 Freeway (I-5). It is bounded by I-5 and Marblehead Inland across the freeway to the northeast, the Shorecliffs and Colony Cove residential areas to the northwest, the Pico Corridor and North Beach Village Specific Plan areas to the southeast, and El Camino Real to the southwest. El Camino Real separates Marblehead Coastal from the Capistrano Shores mobile home community and the Pacific Ocean (see Exhibits 1-2 and 1-3). Marblehead Coastal consists of approximately 248 acres of land and has several significant features, including coastal canyons and bluffs, which are visible from many areas of the community.
105  Marblehead Coastal Planning History

I. 1982 GENERAL PLAN

In July 1982, the City Council adopted a new Citywide General Plan. At about the same time, the City Council also adopted a major amendment to the Zoning Ordinance. The zoning amendment created a “Development District - Coastal” (“D-C”) designation on the zoning map for the Marblehead Coastal area of the City. This D-C District allowed for a maximum of 7.0 dwelling units per gross acre overall and required more detailed planning prior to development.

Subsequent to the 1982 General Plan adoption, a Specific Plan and Local Coastal Program were prepared for the property. A prominent feature of the Specific Plan was a site for the presidential library of Richard M. Nixon. The Plan called for a variety of residential dwelling units and densities with a maximum number of dwelling units not to exceed 1,198 on approximately 117 acres of land. Approximately 70 acres of land along the I-5 was designated for General Commercial uses, with a 27-acre Tourist Commercial site near North Beach Village. Approximately 24 acres were reserved for parks and public facilities including the Nixon Library site. This Specific Plan was approved by the City of San Clemente for submission; however, the California Coastal Commission never certified the plans and the Nixon Library site was not developed.

II. 1992 GENERAL PLAN

In 1993, the City Council adopted the 1992 General Plan, designating Marblehead Coastal as a site for a destination resort hotel and golf course, with a maximum of 290 dwelling units. However, the 1992 General Plan recognizes that the destination resort hotel might not be economically feasible (see G.P. Policy 1.22.5), and that an alternative land use plan would be considered, subject to environmental review and a General Plan Amendment. The proposed General Plan Amendment 96-01 was processed concurrent with this Specific Plan (SP 95-02) in response to the changes in land uses envisioned for the property.

III. RECENT PROJECT HISTORY (1998 – PRESENT)

On August 5, 1998 the City Council approved Tentative Tract Map 8817, Site Plan Permit (SPP) 97-16 and Coastal Development Permit 97-42 to allow the subdivision of 248 acres and the development of a 434 single family residential dwelling units. Site Plan Permit 97-17, Conditional Use Permit 97-18 and Sign Exception Permit 97-19 to allow development of the commercial portion of the project were denied.

On July 7, 1999 the City Council approved Site Plan Permit 99-16, Conditional Use Permit 99-17 and Sign Exception Permit 99-18 to allow the development of 443,860 square-feet of specialty retail, 176,232 square-feet of entertainment and 80,048 square-feet of general retail.

On March 1, 2000 the City Council approved an Amendment to Tentative Tract Map 8817 and Site Plan Permit 97-16 to preserve additional existing wetland habitat and reduce the number of homes from 434 to 424 and allow other related modifications to the previously approved project.
On September 26, 2001, the City Council conceptually endorsed the site plan revisions prior to the applicant submitting an application to the California Coastal Commission.

On April 9, 2003, the California Coastal Commission conditionally approved the Marblehead Coastal project.

On September 16, 2003, the City Council approved an Amendment to TTM 8817 to preserve additional environmentally sensitive habitat areas and other open space, reduce the amount of developed acreage including a reduction in commercial square footage and the number of residential lots from 424 to 313.

On July 20, 2004, the City Council of the City of San Clemente approved Residential Site Plan 97-16 and Commercial Site Plan 99-16. The amended residential site plan reduced the residential units from 424 to 313. The amended commercial site plan reduced commercial square footage from 700,140 square feet to 642, 584 square feet including a 125-room hotel.

On June 21st, 2005, Final Tract Map No. 8817 was approved by the City Council.

The California Coastal Commission issued Coastal Development Permit 5-03-013, as amended thru A3 for the Marblehead Coastal Project on March 27th, 2006.

On March 28th, 2006, Final Tract Map No. 8817 was approved by the City of San Clemente City Engineer.

On April 11th, 2006, Final Tract Map No. 8817 was recorded by Fidelity National Title.

On May 1st, 2007, the City Council approved Amendment to Site Plan Permit (AM SPP) 97-16, Marblehead Coastal Residential Development and Custom Lots.

### 106 General Plan and Zoning

The City’s General Plan land use designations for Marblehead Coastal are shown on Exhibit 1-4. They include the following:

- **RL**: Residential Low Density - Single family homes with a maximum gross density of 4.5 dwelling units per acre.

- **CRC1**: Tourist/Visitor Serving Commercial - Coastal related retail, restaurants, overnight accommodations, entertainment, and similar uses.

- **RC1**: Regional Serving Commercial – General retail commercial, factory outlet stores, promotional and specialty retail, restaurants, entertainment, professional offices, financial institutions, lodging, and similar regional serving uses.

- **OS1**: Public Open Space - Publicly owned parklands, parking lots, and other open space.

- **OS2**: Private Open Space - Privately owned open space intended for passive recreation, aesthetic use, and/or resource management.
• OS3: General Open Space – Publicly owned open space limited to open space preservation areas, infrastructure, athletic fields, and access roads and parking.

The present zoning designation for Marblehead Coastal is SPMC - Specific Plan, Marblehead Coastal. This designation is made per Section 17.52020A of Title 17 Zoning. This Specific Plan sets forth permitted uses and development standards to ensure that the site is developed in a consistent and unified manner. Development within Marblehead Coastal shall conform to all provisions contained within this Specific Plan, as well as the SPMC Zone and sections of the City’s Zoning Ordinance adopted herein by reference.

107 Existing Physical Conditions

The Marblehead Coastal property is a moderately sloping coastal plain, incised by coastal canyons. A portion of the site frontage along El Camino Real remains in a natural bluff state; however, the majority of the bluff along the El Camino Real frontage was graded in 1991 in order to avoid imminent bluff failure potentially threatening life and property along the roadway. Elevations range from approximately 20 feet at El Camino Real to 190 feet above sea level at Interstate 5.

Some native vegetation and non-native species such as Aleppo Pines occupy the canyons, while the plains are vegetated with disturbed grasslands. Wetland habitat exists within approximately 6.9 acres of the property. Maritime bluff scrub and coastal sage scrub exist in portions of the canyons and along the bluff face, which has not previously been graded.

108 Authority and Severability

I. LEGAL AUTHORITY

This Specific Plan has been prepared and adopted pursuant to Title 7, Division 1, Chapter 3, Article 8, Sections 65450 through 65457 of the California Government Code (applicable Government Code sections reproduced as Appendix A). The California Government Code authorizes Cities such as San Clemente, to adopt Specific Plans as a more comprehensive method of implementing the General Plan. The Specific Plan bridges the gap between the goals and policies of the General Plan and the site-specific criteria of a tentative tract map or site plan.

This Marblehead Coastal Specific Plan is a regulatory plan constituting the zoning for the property. Development Plans or Agreements, Tract or Parcel Maps, and any action requiring discretionary or ministerial approval by the City shall be consistent with this Specific Plan as adopted by City Council.

II. SEVERABILITY

In the event that any plan, diagram, regulation, condition, program, or other portion of this Specific Plan is held invalid by a court of competent jurisdiction, such portion(s) shall be deemed separate, distinct, and independent provisions of the Specific Plan and the invalidity of such provisions shall not affect the validity of the remaining provisions of the Specific Plan.
III. TERMINOLOGY

Within this Specific Plan, words used in the present tense shall include the future; words in the singular shall include the plural. The word “shall” is mandatory and the word “may” is permissive. The word “should” refers to policy guidance, which must be followed in the absence of important opposing considerations recognized by the City as valid and overriding. For the purposes of this Specific Plan, certain terms shall be defined as set forth in Chapter 7. Terms not listed shall be defined per the City's Zoning Ordinance, or if not listed in the Zoning Ordinance, shall be construed in accordance with accepted usage.
Chapter 2

MASTER PLAN

201 Planning Concepts
202 Master Land Use Plan
203 Affordable Housing Program
204 Parks, Open Space, and Recreation Trails
205 Grading Concept
206 Circulation Plan
207 Landscape Concept
208 Infrastructure Plan

201 Planning Concepts

I. ECONOMIC DEVELOPMENT

The Specific Plan provides for a regional shopping center of approximately 51.5 acres, located adjacent to the I-5 Freeway. The commercial development is intended to capture sales tax revenues generated by the sale of goods normally found in regional centers (e.g., general retail stores, outlet stores, smaller specialty stores, restaurants, entertainment uses, visitor-serving uses (including lodging) and single line retail, and will provide employment opportunities for residents of the City.

II. RESIDENTIAL DEVELOPMENT

The Specific Plan allows for a range of housing types. In accordance with the General Plan Housing Element, an affordable housing implementation program is proposed (see Section 203).

III. BIOLOGICAL RESOURCES

The Specific Plan calls for the preservation and enhancement of the majority of the sites canyons and the existing wetlands in the (Marblehead Canyon). The preservation, enhancement, and restoration program will include improvement plans for wetland and coastal sage scrub species, as well as fuel modification zones in accordance with City and Orange County Fire Authority requirements. Areas have been reserved for the replanting and maintenance of Blochman's dudleya plants (see Habitat Management Plan under separate cover for more information).

IV. OPEN SPACE, TRAILS, AND RECREATION

The Marblehead Canyon area will serve as a recreation, conservation, and view corridor. The multi-purpose recreation trail, which will extend through the canyon, will link inland trails and bikeways to project trails, such as the bluff trail and regional trails outside the project, as well as join with the ocean view parks (Sunset Park, Canyon View Park, Pico Park) and Sports Park (Jim Johnson Memorial Sports Park) planned on-site.
202 Master Land Use Plan

Exhibit 2-1 is the Master Land Use Plan for Marblehead Coastal. The Land Use Plan delineates open space areas and planned land uses for Planning Areas identified numerically, corresponding to the Exhibit 2-1 Legend. Planning Area 1A, bounded by the I-5 Freeway, Avenida Vista Hermosa, and Avenida Pico, is designated for a regional shopping center. Marblehead Coastal provides two residential neighborhoods that are defined by open space corridors, public uses, and major circulation routes. Exhibit 2-2 is an illustrative site plan, highlighting the open space areas, which include ocean view parks, general open space area, recreation trails, and biological resources, preservation, and enhancement areas. The open space areas are described in Section 204 of this Chapter.

I. REGIONAL COMMERCIAL CENTER

The regional commercial center, Planning Area 1A, will facilitate approximately 640,000 square feet of retail uses with an outlet component at a maximum floor area ratio (FAR) of 0.35. The center will provide general retail sales, outlet stores, smaller specialty stores, restaurants, entertainment uses, visitor-serving uses, and single line retail stores. The center will be designed to accommodate several vista points to the Pacific Ocean. The image of San Clemente will be maintained by designing the commercial center to reflect its Spanish Village By The Sea theme with architecture influenced by the Spanish Colonial Revival tradition in combination with a traditional Santa Barbara architectural theme.

II. VISITOR-SERVING COMMERCIAL SITE

A visitor-serving commercial site, Planning Area 1B, is planned at the southerly corner of Marblehead Coastal, between one of the ocean view parks and a mixed-use area (off-site) within North Beach Village. This site provides an opportunity to integrate the Marblehead Coastal public amenities with North Beach Village, and facilitate visitor-serving uses in the coastal zone. The visitor-serving commercial site will augment the enjoyment of the ocean view park and expand the North Beach Village milieu.

III. RESIDENTIAL NEIGHBORHOODS

Two residential neighborhoods, Planning Areas 2A and 2B, are planned to provide single-family housing at a density of up to 4.5 dwelling units per acre. These neighborhoods will frame the Marblehead Canyon recreation and biological resource area. They will be linked with an internal circulation system that bridges the canyon at Avenida Vista Hermosa and a pedestrian bridge near the mouth of Marblehead Canyon, providing pedestrian connections to the canyon recreation trail. Vehicular access to the residential areas will be from Avenida Vista Hermosa through public streets: Costa Azul and Via Artemesia; and private street Via Canon Verde. These residential neighborhoods will be within easy walking distance to the commercial areas, the ocean view park, North Beach Village, and the Shorecliffs Middle School.

203 Affordable Housing Program

As required by San Clemente’s Housing Element - Inclusionary Housing Program (per Section 17.24.120), the developers of Marblehead Coastal shall provide a minimum of 15 percent of the units built within the Marblehead Coastal Specific Plan area as affordable housing units.
Assuming a buildout of 313 dwelling units, up to 47 affordable units would be required under current provisions. Compliance with the City’s Inclusionary Housing Program affordable housing requirement will be satisfied through payment of in-lieu fees. The Affordable Housing Agreement was executed on February 2nd, 2006.

204 Parks, Open Space, and Recreation Trails

The General Plan requires that 30 percent of the site be preserved as open space (see G.P. Policy 1.22.4).

Approximately 30 percent of the area within Marblehead Coastal is planned for passive or active open space. Table 2-1 summarizes the various types of open space areas within Marblehead Coastal. Exhibit 2-3 is the Open Space Features Plan for Marblehead Coastal.

<table>
<thead>
<tr>
<th>TABLE 2-1</th>
<th>OPEN SPACE STATISTICAL SUMMARY</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>OPEN SPACE AREA</strong></td>
<td><strong>ACRES</strong></td>
</tr>
<tr>
<td>Public Open Space (Marblehead Ocean View Parks: Sunset Park, Canyon View Park, Pico Park)</td>
<td>3.40</td>
</tr>
<tr>
<td>General Open Space (Jim Johnson Memorial Sports Park) – includes access road</td>
<td>8.58</td>
</tr>
<tr>
<td>Blochman Dudleya Reserve (See Canyon Open Space included in Canyon)</td>
<td>(2.14)</td>
</tr>
<tr>
<td>Canyon or Common Open Space</td>
<td>94.99</td>
</tr>
<tr>
<td>Major Perimeter Open Space</td>
<td>11.85</td>
</tr>
<tr>
<td>Interior Slopes and Common Area (including HOA Park – Lot V of 1.32 acres as provided in residential areas)</td>
<td>6.77</td>
</tr>
<tr>
<td>Grand Total (30% Required; 50.5% Provided.)</td>
<td>125.59</td>
</tr>
</tbody>
</table>

*Acreages have been finalized based on Final Tract Map 8817.*  
**See Habitat Management Plan for wetlands preservation and restoration.**

I. PUBLIC OPEN SPACE (MARBLEHEAD OCEAN VIEW PARKS)

The Specific Plan area, proposes three public ocean view parks (Sunset Park, Canyon View Park, and Pico Park) for improvement and dedication to the City (see Exhibit 2-4). The City has agreed in the Implementation Agreement to permit Developer to construct the improvements to the Sunset Park, Canyon View Park, Pico Park, Jim Johnson Memorial Sports Park and Trail Network on the terms set forth in the Agreement, and in consideration for constructing these improvements Developer will not have to pay $2.0 Million referred to in the Development Agreement. The parks will be designed in cooperation with the City’s Beaches, Parks, and Recreation Department. All land dedication and improvements to the park will be credited toward the required Local Park Acquisition and Development Fees, as referenced in Section 35-26g.417 of the City Code, as amended by Ordinance 1062 and Resolution 91-103 (September 4, 1991).

The finished topography of these three sites is designed to offer ocean views and to facilitate outdoor passive play opportunities. The parks will be picnic- and leisure-
MARBLEHEAD COASTAL PARK LOCATIONS

Prepared by RBF Consulting
City of San Clemente
Planning Division
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San Clemente, CA 92673
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MARBLEHEAD COASTAL SPECIFIC PLAN/GPA
EXHIBIT 2-4
LEGEND

CLASS I, II OR III BIKE TRAIL AND BEACH ACCESS

PERMITTED BIKE TRAILS WITHIN PROJECT

MULTI-PURPOSE RECREATION TRAIL (4'-8' WIDE) AND TRAIL LINKAGES

BEACH/METROLINK ACCESS ROUTE

Prepared by RFH Consulting for the
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RECREATION TRAILS
MARBLEHEAD COASTAL
SPECIFIC PLAN/GPA
EXHIBIT 2-5
oriented parks consisting of grassy play areas, picnic tables, shade structures and restrooms.

In addition to the passive picnic areas, the parks may have tot lot play areas and basketball/volleyball courts to enhance the picnic experience. Pedestrian access will be provided via public trails along El Camino Real, Avenida Pico, and the Marblehead Canyon recreation trail, and a pedestrian crosswalk across El Camino Real at Avenida Pico.

I (a). GENERAL OPEN SPACE (Jim Johnson Memorial Sports Park)

The northwesterly section of the Specific Plan area adjacent to the Avenida Vista Hermosa Interchange and Shorecliffs Middle School is proposed for improvement and use for General Open Space uses (Jim Johnson Memorial Sports Park) (see Exhibit 2-4). The 8.6-acre parcel is intended for general recreation uses that include open space preservation areas, infrastructure, soccer fields, a basketball court and access roads and parking.

II. DUDLEYA RESERVE

An area along the Ocean View Pico Park edge will be reserved for planting and preservation of the Blochman dudleya plant. The total Dudleya planting area equal 2.1 acres.

III. CANYON OPEN SPACE

Much of the Marblehead Canyons will be preserved or restored. Grading is proposed at each end of Marblehead Canyon in order to create a transitional area for the recreation trail to enter the canyon. Much of the wetlands at the bottom of the canyon will be preserved and restored. The canyon sides will be re-vegetated with native plants (see Habitat Management Plan). The canyon open space will also include three detention basins for major stormwater flows and will maintain a reliable source of low-flow water for the existing and enhanced wetlands.

IV. EL CAMINO REAL RECONTOURED BLUFFS

In 1990, the majority of the Marblehead Coastal bluff frontage along El Camino Real was recontoured under an emergency-grading permit (CDP 5-90-274) approved by the City and the California Coastal Commission, subject to conditions. At that time, a bench was graded into the recontoured area in order to accommodate a future recreation trail at midbluff elevation. The remaining unstabilized portion of the bluff may one day extend the trail and be recontoured, however, not as part of the projects improvements per Coastal Commission requirement to leave the unstabilized portion of the bluff as is. The entire recontoured bluff area consists of 8.1 acres.

V. MAJOR PERIMETER AND INTERIOR OPEN SPACE

The major perimeter open space (11.85 acres) consists of scenic highway enhancement areas along Avenida Vista Hermosa and Avenida Pico. A scenic easement will be offered to the City along Avenida Vista Hermosa in order to accommodate landscaping and a Class I bike trail. Landscaped common area slopes throughout the residential areas will comprise approximately 6.77 acres (see Table 2-1).
VI. RECREATION TRAILS

The various recreation trails planned for Marblehead Coastal are depicted on Exhibit 2-5. Class I (off-street) bike trails are planned along the coastal side of Avenida Vista Hermosa. There will also be many recreation trails in the Canyons and on the bluff. Trails will range from 4 – 10 feet wide to accommodate pedestrians, as well as bicycles in select areas. The trail provides excellent vista locations in order for pedestrians to stop and enjoy the panoramic views of the coastline from Dana Point to San Clemente State Beach.

To complete the trail system, Class II (on-road) bicycle trails are planned along the west side of Avenida Pico and the inland side of Avenida Vista Hermosa.

205 Grading Concept

The general character and scenic quality of Marblehead Coastal is typified by a coastal plain incised by coastal canyons, with a recontoured bluff along El Camino Real (see Exhibit 2-6, Existing Topography). A grading concept was developed to provide for the preservation of much of Marblehead Canyon as an enhanced biological resource preservation and restoration area. Approximately 1,200,000 cubic yards of earth will be excavated and relocated in order to create developable surfaces (see Exhibit 2-7 and 2-8). Although the majority of the site will be graded, the unstabilized bluffs will not be graded. In the future, should this unstabilized bluff require grading it will require a separate permit from the City and Coastal Commission.

Significant features of the grading concept include the preservation of a significant portion of the canyon floor and wetland area of Marblehead Canyon, and the use of contour grading on major slopes to recreate the character of natural landforms. A natural appearing topographical profile will be maintained, where possible, with necessary grading operations carried out so that the resulting forms will have a sculptured appearance, rather than an abrupt, angular form.

206 Circulation Plan

Exhibit 2-9 shows the Circulation Plan for Marblehead Coastal. The definitions for roadway classifications are found in the General Plan Circulation Element. The Circulation Plan contains the following roadway elements:

I. Avenida Pico is a Primary Arterial Highway providing access to the Marblehead Coastal Specific Plan area. Avenida Pico connects El Camino Real with the I-5 Freeway.

II. Avenida Vista Hermosa is a Primary Arterial Highway which will have an interchange with the I-5 Freeway, and will traverse the Marblehead Coastal property from the interchange to form a T intersection with Avenida Pico. The Avenida Vista Hermosa interchange area also extends northerly of Interstate 5 to Calle Frontera linking Marblehead Inland and future development. Avenida Vista Hermosa provides the primary access to the commercial uses, public recreational facilities, public educational facilities, and residential areas.

III. El Camino Real is an Augmented Secondary Arterial Highway, which borders the Marblehead Coastal property along the southwesterly side, and intersects with Pico.

The Avenida Vista Hermosa interchange area also extends northerly of interstate 5 to Calle Frontera linking Marblehead Inland and future development. No direct vehicular...
GRADING CONCEPT

MARBLEHEAD COASTAL
SPECIFIC PLAN/GPA

EXHIBIT 2-7
CUT AND FILL CONCEPT

MARBLEHEAD COASTAL
SPECIFIC PLAN/GPA

EXHIBIT 2-8
CIRCULATION PLAN

MARBLEHEAD COASTAL
SPECIFIC PLAN/GPA

EXHIBIT 2-9

Prepared by RBF Consulting for the
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access from El Camino Real into the Marblehead Coastal property will be developed. However, there will be pedestrian access into the park from the recreation trail along the bluff and from the sidewalk along El Camino Real.

IV. Local Collectors will enter the low-density residential areas from two entry points on Avenida Vista Hermosa. The local collectors will form an internal road system so that vehicles will not have to enter the arterial highway system when traveling within the low-density residential areas. The internal circulation system is designed to provide the most efficient and convenient access with minimum pavement area.

V. Access from Avenida Vista Hermosa to Shorecliffs Middle School for school buses and a student drop off area will be provided with the future construction of a fully improved 8.6-acre General Open Space (Sports Park) area adjacent to the future AVH freeway interchange.

Development of circulation improvements is addressed in Chapter 4, Phasing and Implementation. As stated in Section 207, rights-of-way, parkways, setbacks, landscaping, and other design features for scenic highways shall be in accordance with the City’s General Plan and Scenic Highways Element, as modified by this Specific Plan. For safety and aesthetic purposes, street parking will be prohibited on public arterial highways (Avenida Vista Hermosa, El Camino Real, and Avenida Pico), unless the City determines that unusual circumstances justify such parking. Such circumstances could include the provision of special on-street parking areas designated along Avenida Pico for special events at the Marblehead Coastal Park. Public parking will be permitted on most of the internal private streets.

207 Landscape Concept

The landscape concept for Marblehead Coastal is designed to reflect the City’s Spanish Village By The Sea theme through the use of plant materials, which are compatible with those, listed in the City’s Design Guidelines and per OCFA & Coastal Commission requirements, planted in formal streetscapes and informal slope planting. Parkway landscaping will be complimented by habitat restoration areas where native and indigenous landscaping will be utilized. Key entry points to different areas are defined by entry monument walls with accent landscaping.

Continuity throughout Marblehead Coastal is achieved by both streetscape and slope planting. Streets provide linear continuity by the planting of street trees. Slopes will be planted informally and will meander through development areas. The choice of species, planting pattern, and other aspects of landscape design will enhance the overall Spanish Village By The Sea theme.

Exhibit 2-10 identifies Avenida Pico, Avenida Vista Hermosa, and El Camino Real as Scenic Corridors. The design standards contained in Chapter 3 of this Specific Plan are aimed at implementing the goals and concepts within the 1992 General Plan Scenic Highways Element and the Master Landscape Plan for Scenic Corridors, including recommendations by City Staff on plant spacing and species as well as OCFA and Coastal Commission requirements. Rights-of-way, parkways, setbacks, landscaping, and other design features for scenic highways will be in accordance with Chapter 3, Design Guidelines, and Chapter 5, Development Standards. Opportunities for public views of the Pacific Ocean are identified on Exhibit 2-11.

Views of the ocean are planned from the four Marblehead Coastal Ocean View Parks and from many areas within the regional commercial center. The shopping center will be designed to offer maximum view opportunities to the public from areas that are planned for restaurant and entertainment uses.
Landscape planting shall include a combination of trees, shrubbery, vines, and groundcover. Drought tolerant and non-invasive plants are encouraged. Additional plants that are part of, or are harmonious with, San Clemente’s landscape tradition of Spanish colonial landscape, as indicated in the City’s Design Guidelines, are encouraged. Plants that have a higher water usage should be limited to specific pedestrian areas. The State Model Water Ordinance (AB325) shall apply to the development, as specified in the City’s Guidelines and Specifications for Landscape Development.

208 Infrastructure Plan

Exhibits 2-12 through 2-15 depict the backbone water; reclaimed water, sewer, and storm drain facilities planned for Marblehead Coastal. There is sewer and water capacity available for the areas of Marblehead Coastal, which are designated for development. Chapter 4, Phasing and Implementation, describes fee programs, which will ensure that the appropriate infrastructure fees are paid for future development proposals.

Natural drainage within Marblehead Coastal primarily flows toward El Camino Real, where it enters a system of storm drain culverts under El Camino Real, which convey the water to the Pacific Ocean. The off-site area tributary to each drainage course will remain unchanged by this project from its natural condition, with no off-site diversion of drainage. As each Planning Area develops, new local infrastructure facilities will be developed to tie into the backbone system.
LEGEND

EXISTING 415' ZONE PIPELINE

PROPOSED 295' ZONE DOMESTIC WATER PIPELINE (RECOMMENDED MINIMUM PIPE DIAMETERS SHOWN)

PROPOSED 308' ZONE DOMESTIC WATER PIPELINE (RECOMMENDED MINIMUM PIPE DIAMETERS SHOWN)

PROPOSED 415' ZONE DOMESTIC WATER PIPELINE (RECOMMENDED MINIMUM PIPE DIAMETERS SHOWN)

PROPOSED PRESSURE REDUCING STATION

PROPOSED CONNECTION POINTS TO EXISTING DOMESTIC WATER SYSTEM

SERVICE ZONE CALLOUTS BASED ON CITY OF SAN CLEMENTE WATER MASTER PLAN (APRIL 1994)

PREPARED BY REF Consulting for the City of San Clemente
Planning Division 910 Calle Negocio Suite 100 San Clemente, CA 92672
Tel (714) 438-2533 Fax (714) 361-8281

INFRASTRUCTURE PLAN: DOMESTIC WATER

MARBLEHEAD COASTAL SPECIFIC PLAN/GPA EXHIBIT 2-12
LEGEND

EXISTING TRUNK SEWER SYSTEMS

EXISTING SEWER FORCE MAIN

PROPOSED SEWER PIPELINE (RECOMMENDED MINIMUM PIPE DIAMETERS SHOWN)

PROPOSED FIRST-FLUSH/NUISANCE FLOW STORMWATER COLLECTION SYSTEMS

PROPOSED CONNECTION POINTS TO EXISTING SEWER LINES

PROPOSED FIRST-FLUSH DIVERSION STRUCTURES

PROPOSED NUISANCE FLOW DIVERSION STRUCTURES

PREPARED BY RBF Consulting for the
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INFRASTRUCTURE PLAN: SEWER

MARBLEHEAD COASTAL
SPECIFIC PLAN/GPA

EXHIBIT 2-15
Chapter 3

DESIGN GUIDELINES

301 Purpose
302 Grading Design Guidelines
303 Site Design Guidelines
304 Landscape Guidelines
305 Architectural Guidelines

301 Purpose

I. PURPOSE

The purpose of this Section is to ensure that development within Marblehead Coastal will be consistent with the City’s General Plan goals, Urban Design Program, and Master Landscape Plan for Scenic Corridors. This chapter provides guidelines for grading, site planning, landscaping, and architecture.

II. USE OF GUIDELINES

Although these Design Guidelines are to be followed by developers, project designers, and City decision-makers in the design and review of development projects, they are not precise zoning regulations. Instead, these guidelines were developed to implement General Plan goals, the Urban Design Program, and the Master Landscape Plan for Scenic Corridors. City decision-makers should use this Chapter to assist in the discretionary review of projects in accordance with Chapter 6 of this Specific Plan. The Design Guidelines should assist design efforts to meet or exceed the City’s quality standards. More specifically, the Guidelines’ objectives are to:

A. Preserve and strengthen San Clemente’s unique character as the “Spanish Village By The Sea.”

B. Help implement the grading, land use, landscape, and other concepts described in Chapter 2.

C. Define a consistent approach to site planning, architecture, streetscape, lighting, landscaping, and other design elements to achieve visual harmony within Marblehead Coastal.

D. Preserve significant natural coastal zone features and develop pedestrian/open space linkages within and between neighborhoods, as well as linkages to North Beach Village and inland trails.

E. Recognize the unique character, constraints, and opportunities of the Marblehead Coastal area.
302 Grading Design Guidelines

Grading within Marblehead Coastal should conform to the Grading Concept outlined in Chapter 2. Within those areas intended to be graded, the following principles should apply:

I. **Natural Landforms** - Grading should maintain or enhance the major natural landforms within Marblehead Coastal, such as the main canyon and bluffs. Manufactured slopes should be contoured to blend with the natural terrain at the development edge. Large flat slopes and highly visible downdrains should be avoided.

II. **Slope Stabilization** - Vegetation, irrigation, and continuing maintenance programs should be used to stabilize manufactured slopes, with trees and shrubs used to soften their appearance.

III. **Maximum Gradient** - The maximum gradient for manufactured slopes should not exceed a ratio of 2:1 (exceptions shall be in compliance with criteria in the City’s Grading Ordinance).

IV. **Curvilinear Streets** - Streets should be curvilinear and designed so that the dwelling units blend with the natural topography when viewed from a distance. Long straight streets should be avoided.

V. **Scenic Views** - Building pads should be designed and sited in a manner that compliments the natural topography and does not interrupt the view of the ocean from selected public vista points identified in Chapter 2.

VI. **Resource Protection** - Precautions should be taken during grading operations to ensure that habitat areas designated to remain natural on Exhibit 2-8 will be protected.

303 Site Design Guidelines

I. **RESIDENTIAL DEVELOPMENT**

A. **Pedestrian and Open Space Linkages** - Open space areas with footpaths should be designed throughout residential neighborhoods to provide linkages to the major recreation trail system.

B. **Setback Variation** - In single-family detached projects, front yard setbacks should be varied sufficiently to create visual interest, variety, and individuality along the street.

C. **Relation to Site** - Structures should be designed with appropriate mass and scale in relation to the site on which they are located, in order to achieve visual balance and harmony with the surrounding prominent natural features.

D. **Recycling and Trash Storage** - Storage areas and trash enclosures should be designed to be an adequate size to allow for storage of recyclable materials, including separate containers for glass, plastic, paper, or other recyclables, when required. Such areas should be screened from view by walls and landscaping.
E. **Project Identification Signs** - Projects should be identified by low monument signage to provide neighborhood identification. Such signs should be harmonious in scale, form, materials, and colors with residential buildings, walls, and other structures, and shall conform to the City’s Sign Ordinance.

F. **Open Space and Views** - Neighborhoods should be planned to maximize the feeling of open space within the development.

Design methods to achieve this include curving streets, orienting development toward open areas and views, and separation of structures to create pocket views.

G. **Circulation Pattern** - Streets, pedestrian paths, and bike paths should contribute to a system of fully connected and interesting routes to all destinations. Their design should encourage pedestrian and bicycle use by being as narrow as safety standards will allow. Streets, pedestrian paths, and bike paths should also be spatially defined by landscaping and structures, thereby discouraging high-speed traffic.

H. **Private Local Street Cross Sections** - Private residential streets should be designed in accordance with Exhibit 3-1 and 3-2 (see Exhibits 4-1 and 4-2 for Public Roads).

I. **Buffer with Colony Cove** – Adjacent to the existing residential Colony Cove neighborhood, referenced lots adjacent to the Colony Cove buildings shall have a minimum 20 feet wide landscape separation between the Colony Cove property line and the Marblehead Coastal residential lot lines, with the potential for the construction of a private trail linking the coastal bluff trail, Colony Cove residents, and transitioning to the Shorecliffs community.

II. **COMMERCIAL DEVELOPMENT**

A. **Pedestrian Environment** - Buildings should be sited in such a manner as to encourage walking from one part of the commercial area to another, minimizing automobile intrusion. Defined outdoor spaces, such as arcades, colonnades, and courtyards, should be provided. The internal and external streetscape design should encourage pedestrian activity. Pedestrian paths should be provided to create convenient accessible linkages from one part of the commercial area to another. Pedestrian walkways should be identified with textured and/or colored paving, and should be buffered from automobile traffic by use of landscaped planters, bollards, street furniture, etc. Vertical elements should be employed to draw the pedestrian to designated walkways leading from the parking areas to the commercial activity areas.

B. **Scenic Vistas** - The siting of buildings should protect and enhance public view opportunities to the ocean, with restaurant and entertainment uses located in areas, which maximize ocean views.

C. **Variations in Building Footprint** - Building footprints should be designed with variations composed of insets, entries, corners, and jogs integrated with adjacent outdoor areas, in order to create visual interest and give a sense of small scale and intimacy.

*Adopted August 5th, 1998*
*First Amendment Adopted August 21st, 2007*
A 56' STREET (PRIVATE)
VIA ESCROND (EAST OF PARK ACCESS ROAD), VIA BELLAS ARTES,
VIA VELAZQUEZ, VIA ALMODÓVAR, VIA PAMPLONA (PORTION OF), VIA SALAMANCA (PORTION)
N.T.S.

B 54' STREET (PUBLIC)
AVENIDA COSTA AZUL (SLY OF VIA CANTABRIA)
N.T.S.

C 52' STREET (PRIVATE)
VIA MURCIA, VIA GALICIA (PORTION)
N.T.S.

D 50' STREET
VIA ARTELESIA (PORTION FROM AVENIDA COSTA AZUL TO VIA BELLAS ARTES—PUBLIC),
VIA PAMPLONA (EAST OF VIA CANON VERDE—PUBLIC), VIA SAN SEBASTIAN (PORTION—PUBLIC), VIA BILBAO
N.T.S.

E 44' STREET (PRIVATE)
VIA SALAMANCA (PORTION), VIA SAN SEBASTIAN (PORTION), VIA MURILLO
N.T.S.
D. **Signs** - Commercial centers should be identified by a sign program with monument signage and wall signs for individual tenants. Such signs may include logos, and should be harmonious in scale, form, materials, and colors with project buildings, walls, and other structures. Due to the size and proportions of the buildings, appropriate scaled signage may require maximum sign area allowances greater than currently specified in the City’s Sign Ordinance. A specific Sign Plan accounting for all such allowances shall be provided for consideration at the time of site plan review.

Freestanding signage shall be integrated with the overall architectural and landscape design for the commercial center. Multiple locations for the freestanding signage shall be permitted and appropriately located with respect to multiple frontages and entries into the center.

E. **Outdoor Lighting** - Parking lot and outdoor lighting should be the minimum needed to accommodate safety and security, in order to minimize impacts on surrounding residential areas, habitat areas in the canyons and areas, intended for public recreation. Decorative fixtures with shields to direct light downward and shield habitat areas from light spill should be used for overhead lighting. Pedestrian scale lighting should be used whenever possible for pedestrian areas. Light fixture design should be consistent with the character of the project.

F. **Screening of Service Areas** - Service and storage areas and trash enclosures should be screened from public view by means of walls, landscaping, natural berms or a combination thereof.

G. **Parking Lot Design** - Parking lot design should provide for vehicular and pedestrian access to adjacent parcels where uses are compatible and where such connection is practical, in order to provide interconnections without requiring vehicles or pedestrians to re-enter the public right-of-way. Parking structures shall be permitted, subject to site plan review.

H. **Parking Lot Buffering** - A landscape (or walkway) buffer area of at least 5 feet should be provided between buildings and parking areas or driveways, in order to avoid placing paved vehicular areas next to building walls. These buffer areas should be landscaped or designed as pedestrian walkways with landscaped planters. Parking areas should be screened from the street by landscaping and berming.

I. **Parking Lot Entries** - Internal parking lot entries should be located as far as possible from intersections in order to minimize congestion and stacking conflicts. For projects on major or primary arterials, or where otherwise determined necessary by the City, full curb return street intersection type entries should be used instead of standard driveway approaches. Major entries should have a paved width of at least 30 feet and all entries should be at least 250 feet apart.

J. **Shared Parking** - The concept of shared parking should be utilized wherever feasible in order to reduce the overall amount of pavement and surface runoff.
304 Landscape Guidelines

I. ORNAMENTAL LANDSCAPE ELEMENTS

A. Project Entries - Major project entries should be designed as statements reflective of the character of the project in order to establish identity for residents, commercial tenants, and visitors. Textured paving, flowering accents, and specimen trees should be used to reinforce the entry statement.

B. Slope Landscaping - Major slope banks should be graded and landscaped to reflect the appearance of natural slopes in the area. Shrubs should be arranged in broad informal masses. These masses should be built up to produce a "mounding" or textured appearance on the slope surface similar to natural slopes.

Trees used on slopes should be of rounded, less vertical species. They should be planted in informal groupings on the lower half of the slope to visually reduce the height of the slope when viewed from below, without blocking views from the top.

C. Parking Area Screening - Parking and circulation areas should be screened from the street by means of landscaping and berming in order to shield views of cars and paving, while promoting views of buildings on the site. Trees should be planted throughout the parking areas to soften the visual impact of large expanses of asphalt.

D. Parking Structure Screening - Parking structures shall have plant material used on the perimeter of the structure to soften the visual impact of the structure from offsite views, consistent with the Habitat Management Plan. This plant material should reflect the open space natural plant communities as they currently occur on the site, with the additional use of ornamental screening plantings within 15 feet of the structure.

E. Boundary Landscaping - Boundary landscaping should be installed along all property lines with at least one tree planted for every 30 lineal feet on average. Landscape mounding can be used along all arterial highways unless determined infeasible by the Planning Commission or City Council, as appropriate, due to safety or other site considerations.

F. Decorative Paving - Decorative paving at project entries and interior project pedestrian areas should be used. Decorative paving should consist of brick, tile, pavers, stamped concrete, or similar materials.

G. Street Trees - Street trees should be provided in front yards on local and collector streets at an average ratio of one tree per every 30 feet of frontage, in order to provide a shade canopy along street edges and visually soften the effect of buildings and hardscape as viewed from the street. Trees should be a minimum of 15 gallons in size and should be planted within 15 feet of the sidewalk (or curb where there is no sidewalk). Preferred species must be selected per Coastal Commission requirements for Public Roads (Avenida Costa Azul and Via Artemesia) – See Appendix D1 and Private Roads – See Appendix D2 in Landscape Design Guidelines Book, dated December 23, 2005.

Adopted August 5th, 1998
First Amendment Adopted August 21st, 2007
H. **I-5 Landscape Treatments for Project Perimeter** - Landscape treatments along the project perimeter will utilize ornamental and native plantings. This treatment is encouraged to soften the potential visual impacts and to comply with the Habitat Management Plan. Landscape treatments shall be used to screen some areas, while enhancing and preserving some view corridors in other areas. There are existing small segments of views, which lead into the commercial center. The applicant shall work with Caltrans to preserve, if feasible, the existing eucalyptus trees within the Caltrans right-of-way adjacent to the proposed regional commercial center.

1. **Screening** - The utility area and rear of building which face the I-5 Freeway shall be screened with plants. Wherever possible, trees should be planted which grow to exceed the height of the building to break up the long horizontal lines.

2. **Buffer Area** - A landscape buffer shall be provided adjacent to I-5, having a minimum width of 5 feet from the I-5 right-of-way.

I. **Landscape Adjacent to Commercial Buildings** - Commercial buildings may have a landscape area immediately adjacent to the front and sides of buildings except for loading and service areas. These areas shall be considered in meeting the overall 15 percent site landscape area requirement. Covered walkways, patios, courtyards, and landscape areas may be counted toward the total landscape requirements.

J. **Commercial Pedestrian Plaza Treatments** - San Clemente has the potential to develop courtyards for pedestrians, which take advantage of the City’s exceptional climate. If possible, it is preferable that the courtyards be partially visible from the street and surrounding commercial/retail areas. Courtyard treatments will be used for pedestrian areas consisting of decorative paving and landscaping. The total courtyard area shall count toward the landscape requirements.

1. **The Entertainment Court** - Entertainment facilities, retail shops, and restaurants shall be provided at the edges of the Entertainment Court. Blank walls or dead spaces without pedestrian interest shall be minimized. The design of the courtyard may provide a choice of sunny and shaded areas, variety of texture and color, movable seating and table (for outdoor eating), and a focal point object.

2. **The Retail Promenades** - The Retail Promenade walk system located in front of the retail stores will be primarily made of various forms of decorative concrete, with landscape planters and movable pots to create people spaces. Outdoor furniture shall be located at convenient locations.

3. **The Restaurant Plazas** - The Restaurant Plazas shall primarily be established as outdoor eating areas. These plazas shall maximize ocean vistas whenever possible. The design of these plazas shall be similar to the Entertainment Plaza, yet on a smaller scale for single or double users.

K. **Transition from Off-Ramp Planting** - The landscape at the Avenida Vista Hermosa and I-5 off-ramp will follow the landscape concept of Palms, and
Bougainvilleas, transitioning into the commercial center parkway landscape for the first 300 feet.

L. **Commercial Landscape Screening and Buffers** - Landscape screening and buffers are necessary to provide a visual barrier between utility structures and functions (i.e., loading areas) and off-site areas. A landscape screen may consist of walls with landscaping, or massings of trees, shrubs, and groundcover planters in key areas along the perimeter of the development to mitigate unfavorable views from off-site.

M. **Commercial Landscape Area Requirements** - A minimum of 10 percent of the site area shall be landscaped. This percentage includes landscape buffers within the site (adjacent streets and highways), landscape islands, tree wells and other landscape planting areas within the site, landscape easements, and hardscape outdoor pedestrian areas.

N. **Commercial Parking Lot Landscape Treatments** - Parking areas shall be broken up by a combination of building placement and landscape planting (primarily trees for visually screening). Landscape planting in parking areas shall be located in planter areas (landscape islands and tree wells), which are bounded by concrete curbing (minimum 6 inches high). Tree wells in parking areas shall have a minimum size of 5 feet by 5 feet (outside curb dimension). Landscape islands and tree wells shall contain trees, shrubs and groundcover.

1. **Landscape Areas** - The landscape areas within the parking lot shall contribute to the overall 15 percent landscape area requirement for the site (landscape area calculated based on net site area excluding building footprints). No specific landscape area percent is designated exclusively for the parking lot area. Landscape fingers with a minimum width of 5 feet to the outside curb shall occur at the end of all parking stall runs, except at pedestrian paved areas.

2. **Tree Requirements** - A minimum of one 15-gallon tree shall be provided for every 10 parking stalls on average. Due to the unique view opportunities of this site, palm trees shall be counted toward the tree count requirement. Clustering of parking lot trees to allow for view corridors shall be encouraged where appropriate.

3. **Tree Selection** - Trees used within the parking lot shall be from the Marblehead Commercial parking lot plant palette or approved by the City Planner. A consistent emphasis on view, coordination, clustering, and circulation shall be realized within the tree layout.

4. **Shrub Selection** - Shrubs within the parking areas shall be over 8 inches in height, but not exceed 36 inches in height, so as not to obstruct auto visibility. All parking lot tree planters shall also contain shrubs.

5. **Groundcover Use** - Groundcover plant material is not required in tree wells if there are adequate shrubs for eventual full coverage of groundcover areas.

6. **Tree Well Irrigation** - Drip irrigation is encouraged in tree well areas.

Adopted August 5th, 1998
First Amendment Adopted August 21st, 2007
7. **Parking Lot Screening** - Along Avenida Vista Hermosa, parking areas for the commercial development shall be screened from the street by means of landscape planting or berming in the landscape buffer. A continuous screen 30 inches in height should be formed by the use of plants or berms. Shrubs should be 30 inches in height after 2 years growth, and should be spaced in massed plantings so that branches inter-twine.

II. **SCENIC HIGHWAYS**

A. **Parkways Within the Right-of-Way** - In accordance with the Master Landscape Plan for Scenic Corridors, landscaped parkways adjacent to scenic highways should generally be 15 to 20 feet in width. Bikeways may be placed within or outside these parkways. Sidewalks may be adjacent to the curb or may meander through the parkways. Such specific design considerations will be approved by the City at the project level of review. Scenic highway cross-sections for Avenida Vista Hermosa, Avenida Pico, and El Camino Real are as shown on Exhibits 4-1 and 4-2.

B. **Plant Palette** - Plant materials utilized in scenic highway medians and parkways should be consistent with the Landscape Guidelines approved by the Coastal Commission and landscape theme described in Chapter 2, reflecting the City’s “Spanish Village By The Sea theme.”

C. **Wall Adjacent to Scenic Corridors** - Masonry or stucco walls or view fences (e.g. wrought iron) should be used adjacent to scenic highways instead of wood fences. Designs should incorporate colors, materials, and finishes that blend with the surrounding environment. Wall standards are as follows:

1. Materials and general appearance are to be consistent on both sides of Avenida Vista Hermosa.

2. Setbacks for walls should vary to add interest to the streetscape. Long straight stretches of wall are to be avoided. Walls may be opened up at select locations with panels of wrought iron, tubular steel, or similar materials.

3. Wall heights should be less than 6 feet wherever feasible.

4. Landscaping should be integrated into wall design to soften appearance.

III. **FUEL MODIFICATION**

A fuel modification zone is a wide strip of land where flammable native vegetation is removed or thinned, and partially or totally replaced with drought tolerant, fire resistant plants. The many variables involved with fuel modification make precise regulations for general application infeasible. Therefore, each project must be reviewed for its particular needs. These guidelines may be modified in areas where unique conditions or biological resources exist, subject to review and approval of the Fire Marshall.

Fuel modification generally consists of a wet zone and one or more thinning or fuel modification zones. The wet zone, also referred to as the irrigation zone, generally extends from the edge of a graded pad or the limit of an area where storage of
combustible materials or combustible structures may be located. The project wet zone will vary (when needed), and planted only with fire resistant plants and permanently irrigated. The thinning zone is not needed on most of this project because slopes are not expansive and the project is not adjacent to wildland conditions. Plant selection should comply with the Fuel Modification Standards of the Orange County Fire Authority. The Habitat Management Plan and the Landscape Concept for the residential and commercial Site Plans identify specific standards and locations for fuel modification for this project.

IV. CRITERIA FOR PLANT SELECTION

Plant materials should be chosen on the basis of both functional and visual characteristics. The following additional criteria should be used in plant selection:

A. Landscape Theme - Plants (non-native, non-invasive), which are consistent with the City’s Spanish Village By The Sea theme, are encouraged in residential and commercial areas. These include select palm, citrus, and fruitless olive trees, and flowering shrubs and vines (or drought tolerant substitutes). Native species are preferred for open space areas (see C. below).

B. Plant Selection Considerations - Consideration will be given to the reduction of landscape maintenance and water consumption, adaptability to high-salt and hieghboron soil conditions present in San Clemente, low fire-fuel content in transition areas between development and open space, and enhancement of slope stability and erosion control.

C. Native Species - Within natural open space areas, preference will be given to species native to the Southern California coastal region, and will be subject to constraints pertaining to soil and other environmental conditions (see Landscape Concept submitted with Site Plans). A soils agronomy report will be submitted with the Landscape Construction Drawings.

305 Architectural Guidelines

I. RESIDENTIAL

The purpose of the residential architectural guidelines is to provide general design criteria and guidance for development of the various residential neighborhoods in Marblehead Coastal. These guidelines have been developed to establish a high level of product quality, to assure both variety and compatibility, and to enhance the community’s overall value.

Due to the proximity of Marblehead Coastal to North Beach Village and the high degree of visibility the dwelling units will have from North Beach Village, the overall architectural character in Marblehead Coastal will encourage a variety of themes, which are compatible with the existing Marblehead project. Each neighborhood within Marblehead Coastal will create its own character, while adhering to a unified theme through the use of quality landscaping, architecture, and entry monumentation.
A. Elevation and Plan Treatment

1. **Recesses and Shadow** - The effect of sunlight is a strong design consideration since shadow and shade gives the building a sense of depth and substance. Projections, offsets, overhang, and recesses should be utilized in the creation of shadows.

2. **Architectural Projections** - A projection not only creates shadow but also provides a strong visual focal point. It can be used to emphasize some aspect of the design such as an entry or a major window.

3. **Entry Statement** - The entry should be designed to serve as a focal point of the elevation and should be readily discernible.

   The approaching observer should be drawn into it by its visual impact. Front porches are encouraged.

4. **Articulation of Side and Rear Elevations** - The rear and sides of homes backing onto major streets are highly visible from off-site and should be treated in a similar manner to the front elevation. This is particularly true of second story conditions visible above a solid fence line.

B. Building Mass and Streetscape

1. **Variation in Roofline** - A key technique for creating a sense of variety within a residential project is to vary the heights and forms of the homes as seen from the street. This can be accomplished by utilizing both one and 2-story building elements. To improve the visual relationship between adjacent 2-story buildings, it is desirable to introduce an intermediate transition between them. This can be done by either introducing a composite one-and 2-story unit to be placed between the 2 buildings, or by creating a single-story architectural element within the 2-story building to lessen its apparent height. Views of the residential development from public vantage points are equally important. A monotonous appearance can be avoided by incorporating a mixture of hip, shed and gable roofs on the rear elevations, increasing building separation, and varying the orientation of building footprints.

2. **Front Elevations** - The design of single-family residential units should incorporate front elevations which convey a friendly neighborhood environment. Plans, which have living areas closer to the street and recessed garages, are encouraged. Front porches are also encouraged.

3. **Interior Lots and Street Corners** - Units located at street corners should be either single-story or have a significant single-story mass oriented towards the exterior side yard. At interior side yards, it is desirable to create the appearance of increased building separation by stepping the second-story mass away from the property line. This decreases the "canyon-like" effect between buildings, and allows greater light penetration into what otherwise might be a dark sideyard.
C. Roof Form

1. Roof Pitch - The principle roof forms should have a pitch of between 3:12 and 6:12. A single roof pitch should be used on both sides of a ridge. The more shallow pitches should be used when it is necessary to lessen the apparent building mass.

2. Roof Types - There is no single roof type or form that is preferred. With careful design, hip, gable and sheds may be used separately or together on the same roof. Repetitious gable ends along rear elevations should be avoided. Mansard roofs and flat roofs should avoided.

D. Materials and Colors

1. General Criteria - The materials and colors should be compatible with and contribute to the overall quality of the community.

2. Walls, Trim and Siding-
   a) Stucco Textures: Smooth, light sand, sand, and machine applied textures are appropriate. Lace textures should be avoided.
   b) Trim Materials: Trim materials, window frames, or surrounds should be 2 inches wide or greater. The width of trim should be appropriate to the chosen architectural style or theme. Both re-sawn and smooth finishes are acceptable.
   c) Wood Siding: Most traditional wood siding techniques are generally acceptable. Hardwood siding is acceptable but should be painted with a flat finish to avoid the visual impact of warpage. Plywood siding is not acceptable.
   d) Use of Stone and Brick: The tasteful use of stone and brick as an accent is encouraged. Grout should be of a light color.

3. Roof Materials-
   a) Specific Materials: Clay tile, concrete tile, composition roofing, and other similarly appearing fire-resistant materials are acceptable from a design viewpoint. Wood shakes or shingles should not be used because of the difficulty in ensuring fire resistance.
   b) Texture and Color: Roof colors should complement the wall and fascia color, and be of a generally neutral tone while avoiding high contrast colors such as bright red, deep orange, or ceramic blue. The community should have a variety of roof color in order to avoid a monotonous monolithic appearance when viewed from a distance. Vents should be of the same color as the surrounding roof surface.
E.  Garages

1. Units should be designed and plotted so that the living portion of the house becomes the focal point, rather than the garage. Several design strategies can be employed to de-emphasize the garage:

   a) Wide-shallow units allow more of the living area of the house to be seen from the street.

   b) The living area can be designed to be closer to the street than the garage.

   c) Garages shall be located in accordance with Section 501 of the Residential Development Standards.

   d) Where there are three car garages, one of the garage spaces can be recessed with a separate door and separated from the double portion of the garage by a landscaped strip in the driveway.

   e) Some garages can be designed for side entry.

   f) A mix of 2 and 3 car garages can be provided.

   g) Second-story feature windows above the garage and strong architectural entry elements can be employed.

II. COMMERCIAL

The purpose of the commercial architectural guidelines is to provide a design tool, which will contribute to attaining certain goals of the City’s General Plan Urban Design Element. The integration of design elements characteristic of the Spanish Revival combined with the City “Village By The Sea” architectural style defines the character of the buildings and gives the shopping area a sense of place. The guidelines in this Section will enhance the City’s “Spanish Village By The Sea” theme.

For Regional Servicing Commercial Planning Area 1 A, the following guidelines apply in order to:

- Preserve and strengthen San Clemente’s unique character and historic identity as the “Spanish Village by the Sea.”

- Create a regional shopping center consistent with the City’s historic Spanish Colonial Revival buildings, Mediterranean climate, and natural features.

The Coastal/Recreation Commercial Planning Area 1B is subject to the Spanish Colonial Revival Architectural Guidelines in the City’s adopted Design Guidelines. The guidelines found herein also apply to Planning Area 1B.

A. Architectural Style

The massing, asymmetric forms, and spatial relationships should incorporate the application of the following basic design elements and patterns of the Spanish
Colonial Revival tradition combined with the City “Village By The Sea” style: a) simple white stucco walls; b) red or clay tile roofs; c) arches as an architectural feature; d) distinctive roof lines with low pitches; and e) balconies and verandas, plazas and other public and private open space areas.

1. **Articulation** - Building design shall be articulated by integrating architectural building elements and incorporating defined outdoor spaces, courtyards, patios, plazas, covered walkways, trellised areas, gardens, verandahs, balconies, roof terraces.

2. **Screening** - Roof mounted mechanical equipment shall be enclosed within the roof structure or visually screened using design elements compatible with the overall design theme of the building.

3. **Architectural Style** - The outlet complex buildings shall reflect the Spanish Revival – Village By The Sea style of architecture as specified in the City's Design Guidelines with predominantly low eave lines below pitch roof elements and arched arcades over covered walkways.

**B. Building Mass and Form**

1. **Mass and Form Relationship to Open Space** - A spatial relationship between indoor and outdoor spaces should be created. The resulting courtyards and patios are defined by the placement of surrounding building mass and walls. Outdoor spaces should be bordered by restaurants; coffee houses and other uses that will help activate the outdoor space, achieving a pedestrian scale environment due to the smaller size of these uses.

2. **Single-and Multi-Story Elements** - It is desirable to create a combination of one-, 2- and 3-story elements within the larger building form in order to provide a variety of scale and to reduce the perceived box-like appearance. Elements above the second-story should be reduced in size.

3. **Large Buildings** - Visual relief should be provided for large expanses of building facade by creating focal points, significant secondary elements off the larger buildings, design details, and articulation. Entry locations and pedestrian walkways should incorporate architectural treatments, which relate to human scale. Three-dimensional treatments are encouraged in order to avoid the appearance of a false facade.

Roofs are perhaps the most visually dominant element in Spanish originated designs. In dealing with a commercial application, it is desirable to break the large expanses of roof plane into smaller irregular sized areas. The roof type, height, and overhang type should vary enough to enhance the desired irregular asymmetric form and mass.

4. **Roof Types** - Gable roofs should have an eave and may have exposed rafter tails. Hipped roofs should be used in combination with gables or on a tower element. Shed roofs may be used in conjunction with verandas and other accent features. In larger commercial spaces, it is understood that the full hip and gable roofs may not be practical or affordable. Shed
roofs, with a low pitch and sufficient depth, can be used to provide the appearance of a full roof on portions of larger commercial spaces. In large retail buildings where flat roofs are utilized, pitched roof elements should be incorporated by inclusion in distinct massing segments of the building such as entry features, towers, and arcades rather than in a continuous manner. Where straight wall parapets are utilized and visible, cornices and or other architectural detailing shall be incorporated.

The roofline on large buildings with long elevations should be broken up by roof elements of varying height. Tower elements are also encouraged to break up large elevations. Parapet walls can also be used to add variation in the roofline.

5. **Screening of Equipment** - All roof equipment should be completely screened within a horizontal line of sight at parapet level. A screen enclosure behind the parapet may be used if made to appear an integral part of the building. The parapet roof must be tall enough to completely screen the equipment. Superficial mansard treatments, which appear as plant-ons or “eyebrows”, are not acceptable.

6. **Rear and Side Facades** - Carefully design rear and side facades to be compatible with the principal facades of the building.

7. **Building Massing** - Reduce perceived height by dividing building mass into smaller components scaled to human size.

8. **Building Clusters** – Building clusters shall consist of a grouping of buildings connected by courtyards and pedestrian walkways, intended to serve complimentary or related uses.

9. **Building Footprints** - Multiple smaller building components connected by outdoor spaces are preferred over large footprint buildings.

10. **Roofs** - Roof forms shall be predominantly hip roofs with some use of gable and shed roofs allowed.

11. **Building Siting and Orientation** - Organize buildings and open spaces to take advantage of the spaces between buildings as opportunities for outdoor activities, as transitions between indoors and outdoors, and as potential points of focus on the site.

C. **Elevation Treatment**

1. **Articulation of the Facade** - When read in plan view, a continuous facade should be avoided by stepping adjacent storefronts. The main vertical wall plane should be articulated by the use of balconies, verandas, and arcades to provide outdoor areas protected from the weather. Tower and columns can also be used to provide variation and visual interest to a facade.
2. **Wall surfaces** - Buildings should be designed to appear as if they are constructed with thick masonry walls. Wall surfaces should be light colored, stucco, or plaster with a finish texture influenced by the Spanish Colonial Revival style. Walls should have recessed door and window openings where feasible to achieve a shadow impact.

3. **Use of Focal Elements** - The use of focal points in a commercial complex is desirable. The focal elements recommended include courtyards, towers, fountains, and artwork.

D. **Materials and Colors**

1. **Roof Materials** - Two-piece clay mission barrel tile should be used in commercial projects. The tile should be laid in a slightly irregular manner to give a rough uneven texture to the roof appearance. Eaves may be left open, closed with grout, or with clay bird stops. The ridge, hip and rake should be of barrel tiles irregularly spaced and grouted. On flat roofs, vents and other exposed equipment should be painted to match the selected tile color. Parapets and enclosures should reflect the exterior wall color. Roof flashing may reflect either the roof or wall color as appropriate.

2. **Wall and Trim Materials** - The primary wall material should be stucco or painted brown coast. The texture of the exterior plaster/stucco should be smooth. Heavy "Spanish lace" finishes should not be used. The stucco surface, while relatively smooth, should have a slightly irregular hand applied appearance with radiused corners. Re-sawn wood is encouraged to be used as secondary wall material for the following and similar elements: 1) posts and exposed beams; 2) railing, spindles and grill work; and 3) shutters, window frames and doors.

3. **Accent Materials** - Accent materials should be closely coordinated to achieve a design continuity with the period theme. Accents reinforce and build on the character of the Spanish Revival design. Accents that are inappropriate for Spanish Revival Architecture can degrade the architecture quality. The following accent materials are encouraged:

   a) Brick, tile, and stone are preferred surface materials. Where concrete is used, it should be colored and textured in patterns and designs replicative of Spanish Colonial hardscape. Carved stone or cast concrete for door surrounds, fountains, or caps may also be considered.

   b) Ceramic tile for door and window surrounds, fountains, wainscots, stair risers, and wall accents are encouraged.

   c) Metal work is encouraged and can be used for railing, grills over windows, awning supports, weather veins, decorative hardware, lighting, and gates.
3-16

d) Decorative towers and cupolas with tile roof or metal or tile domes are strongly encouraged as accents.

4. **Color Palette** - The colors used should be primarily as follows:
   
a) Stucco/Plaster: white, off-white, occasional earthtones.
   
b) Wood Post/Beams: stain or natural.
   
c) Doors, Windows, Shutters: terra cotta, blue, yellow, ocher, dark or sea green.
   
d) Roof Tile: reddish brown, terra cotta, and natural.

5. **Signs** - Signs should be integrated into the architectural design of the building in a manner consistent with the intent of the City’s Sign Ordinance, as well as the architectural elements, scale, and massing of the project.

6. **Arches** - Full rounded arches are a key element of Spanish Colonial Revival architecture and are strongly encouraged. Arches should be of a size and thickness that is in scale with the building mass. The arch and support column should be a minimum of 18 inches in depth. Square or rectangular columns are preferred; the use of circular columns should be limited.

7. **Windows and Doors** - Openings should be placed and designed to suggest the thickness of a masonry building. Windows and doors should be recessed where feasible and appropriate. Plant-on strips around doors and windows are discouraged. Windows with clear glass and mullions are encouraged. Metal windows and doors can be used but should have the appearance of wood. Clear glass should be used for windows and doors; mirrored glass is strongly discouraged.

E. **Landscaping**

1. **Purpose** - Use planting to define outdoor spaces, soften the impact of buildings and parking, screen parking and service areas from public view and create visual linkages. Landscaping shall also be used to visually define pedestrian and vehicular linkages and circulation access points.

2. **Location** - Landscape design shall address streetscape, landscaped entries, landscaped outdoor spaces and landscaped building facades.

F. **Parking**

1. **Screening** - Visually screen parking from street view by landscaping, berms, etc.

2. **Design** - Break parking areas into multiple smaller areas distributed around buildings and outdoor areas, using landscaping and pedestrian access paths.
G. Circulation and Pedestrian Linkages

1. *Between Commercial and Open Areas* - Provide clearly defined and separated pedestrian linkages between commercial buildings and outdoor use areas.

2. *Between Parking and Buildings* - Provide defined and separated pedestrian linkages from parking areas to buildings and outdoor use areas.

3. *Between Circulation Routes* - Separate primary internal circulation routes from parking circulation.
Chapter 4

PHASING AND IMPLEMENTATION

401 Development Phasing
402 Circulation Phasing
403 Bikeway and Trail Phasing
404 Infrastructure Improvements
405 Funding of Public Facilities
406 Maintenance Responsibilities
407 Future Conditions of Approval

401 Development Phasing

Development within Marblehead Coastal is expected to begin prior to the year 2005. No building permits will be issued for any part of Marblehead Coastal until all funding for the entire interchange project has been secured according to RCFPP requirements. Overall site grading is anticipated to occur in one phase, with partial development of the regional commercial center and/or the first two phases of residential development planned as the first development phase. Residential permits may be issued when traffic studies demonstrate that acceptable levels of service will be maintained on Avenida Pico in accordance with General Plan and RCFPP standards.

The development of the property and the construction of future infrastructure improvements outside the tract boundary such as the construction of the Avenida Pico improvements are the responsibility of the applicant and/or the future landowner(s), except as provided for by the RCFPP.

The table on the following pages outlines the staging program for Marblehead Coastal.

Section 407 identifies all mitigation measures required by Environmental Impact Report No. 95-01, and the method of monitoring those impacts.
## MARBLEHEAD COASTAL STAGING PROGRAM

<table>
<thead>
<tr>
<th>STAGES</th>
<th>PROJECT IMPROVEMENT</th>
<th>TIMING</th>
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<tbody>
<tr>
<td>Development and other related improvements or infrastructure may be completed in a prior stage, but not later than indicated below:</td>
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### STAGE 1

This stage consists of regional commercial and the first and/or second residential phases of Marblehead Coastal adjacent to AVH and Shorecliffs Middle School.

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<tbody>
<tr>
<td>1)</td>
<td>Ave. Vista Hermosa (AVH) from Frontera to Pico, and construction of the Interstate 5 Interchange, including the widening of the existing freeway overcrossing. (Done)</td>
<td>1) No building permits may be issued for any part of the Marblehead Coastal project until funding for the entire interchange project has been secured according to RCFPP requirements. (Done)</td>
</tr>
<tr>
<td>2a)</td>
<td>Ave. Vista Hermosa (AVH) full width of the 4-lane primary arterial from Interstate 5 to Ave. Pico.</td>
<td>2a) Improvement of the full width of AVH and AVH Bridge prior to issuance of the 151st residential building permit (ATTM COA 93 and SPP 97-16 COA 37).</td>
</tr>
<tr>
<td>3)</td>
<td>Mass site grading of the entire project site and hydoseed Phases – 3, 4, 5 and 6 of the residential lots until development occurs.</td>
<td>3) Subsequent to completion of the interchange for Marblehead Coastal.</td>
</tr>
<tr>
<td>4)</td>
<td>AVH/Ave. Pico intersection improvements.</td>
<td>4) To be completed by issuance of 151st residential building permit.</td>
</tr>
<tr>
<td>5)</td>
<td>Avenida Pico widening and Median improvements.</td>
<td>5) To be completed by issuance of 151st residential building permit (ATTM COA 94 and SPP 97-16 COA 38)</td>
</tr>
<tr>
<td>6)</td>
<td>Jim Johnson Memorial Sports Park</td>
<td>6) Rough grading and utilities stubbed in, to be complete prior to issuance of the “first” residential building permit.</td>
</tr>
<tr>
<td>7)</td>
<td>Applicant to dedicate OS3 land (acreage to be determined through the subdivision process) to the</td>
<td>7) Rough grading and utilities stubbed in, after completion of the interchange improvements.</td>
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Adopted August 5th, 1998
First Amendment Adopted August 21st, 2007
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<tr>
<th>STAGES</th>
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<tr>
<td>STAGE 1 (Continued)</td>
<td>City of San Clemente for Jim Johnson Memorial Sports Park.</td>
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<tr>
<td>8)</td>
<td>Marblehead Canyon multipurpose trail and Bluff trail along recontoured blufftop.</td>
<td>8) To be graded (not completed) during the initial residential stage.</td>
</tr>
<tr>
<td>9)</td>
<td>Class I bike trail along SB AVH and Class II bike lanes on Avenida Pico.</td>
<td>9) To be completed concurrent with the construction of AVH and the widening of Avenida Pico.</td>
</tr>
<tr>
<td>10)</td>
<td>Coastal Sage Scrub Reserve and Restoration (on-site).</td>
<td>10) Ongoing program in conjunction with the Coastal Development Permit.</td>
</tr>
<tr>
<td>11)</td>
<td>Dudleya reserve and restoration site.</td>
<td>11) Ongoing maintenance program provided by the applicant. Ultimate responsibility will be provided by the Center for Natural Lands Management.</td>
</tr>
<tr>
<td>12)</td>
<td>The Wetlands/Canyon area (multi-year project intended to be planted).</td>
<td>12) Improvements to be completed prior to the issuance of the first residential certificates of use and occupancy adjacent to this preservation area. This timing may be adjusted upon approval of the Comm. Develop. Dir.</td>
</tr>
<tr>
<td>13)</td>
<td>Construction mitigation phasing plan.</td>
<td>13) Required prior to initial grading permits. (Done)</td>
</tr>
<tr>
<td>STAGE 2</td>
<td>This stage consists of regional commercial and/or the second and third and fourth residential phases of Marblehead Coastal.</td>
<td></td>
</tr>
<tr>
<td>1)</td>
<td>Pico/ECR intersection improvements, including 2nd WB left-turn from Ave. Pico to El Camino Real.</td>
<td>1) Subject to General Plan and RCFPP level of service requirements at intersections and linkages (ATTM COA 88)</td>
</tr>
<tr>
<td>2)</td>
<td>El Camino Real widening and Class II bike trail along northbound El Camino Real.</td>
<td>2) To be completed prior to issuance of 251st residential building permit (ATTM COA 95 and SPP 97-16 COA 39)</td>
</tr>
<tr>
<td>STAGE 3</td>
<td>This stage consists of the remaining regional commercial (freestanding)</td>
<td></td>
</tr>
</tbody>
</table>
### STAGES

<table>
<thead>
<tr>
<th>PROJECT IMPROVEMENT</th>
<th>TIMING</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development and other related improvements or infrastructure may be completed in a prior stage, but not later than indicated below:</td>
<td></td>
</tr>
<tr>
<td>pads, etc.) &amp; 5\textsuperscript{th} phase of Marblehead Coastal</td>
<td></td>
</tr>
</tbody>
</table>

### STAGE 4

This stage consists of the Coastal and Recreation Serving Commercial site adjacent to Ave. Pico and the community park and completion of the residential units.

### 402 Circulation Phasing

The arterial highway system within Marblehead Coastal will consist of the extension of Avenida Vista Hermosa (AVH) from Avenida Pico to Calle Frontera and the design, engineering, construction, and completion of the Avenida Vista Hermosa interchange. Certain improvements to El Camino Real and Avenida Pico will also be necessary.

Phasing of circulation improvements shall proceed in the following manner:

1. No building permits until interchange is funded
2. Partial development permitted during interchange construction subject to maintenance of acceptable levels of service on Avenida Pico, in accordance with General Plan and RCFPP standards.
3. Pico Widening & median to be completed by issuance of 151\textsuperscript{st} residential building permit or prior to first commercial Certificate of Occupancy, whichever occurs first.
4. ECR/Pico intersection subject to General Plan and RCFPP LOS at intersection.
5. Completion of El Camino Real widening, and Class II bike trail to be completed by issuance of 251\textsuperscript{st} residential building permit.

Future subdivision maps within Marblehead Coastal will be conditioned to make all necessary internal and/or Avenida Pico circulation improvements for each phase of development in order to maintain acceptable levels of service on project streets and Avenida Pico, in accordance with General Plan and RCFPP standards. For Public Road Sections, refer to Exhibits 4-1 and 4-2 for typical primary and secondary arterial cross-sections. For Private Road Sections, see Exhibits 3-1 and 3-2.
403 Bikeway and Trail Phasing

Bikeways and recreation trails within Marblehead Coastal will be completed with each adjacent phase of development. The Class I bicycle trail along southbound Avenida Vista Hermosa and Class II bike lanes in Avenida Pico, northbound El Camino Real and Avenida Vista Hermosa will be completed as part of the adjacent arterial highway improvements. These trails are to be constructed by the developers of the Marblehead Coastal property. The general alignment of these bikeways and recreational trails is shown on Figure 2-5.

The Marblehead Canyon multi-purpose recreation trail will be completed prior to occupancy of the first residential dwelling unit. Recreation trail easements for trails outside of the public right-of-way shall be offered for dedication to the City and maintained by the developer until responsibility is assumed by the City or a master property owner association.

The Class I off-road bikeway along the coastal side of Avenida Vista Hermosa should meander within an easement/right-of-way area 20 feet. It should be separated from the curb by means of a landscaped parkway at least 5 feet in width, except within 50 feet of street intersections where it may transition to be adjacent to the curb. Width and surface standards for the Class I bikeways along Avenida Vista Hermosa will be established by conditions of approval on future Tentative Tract Maps. Construction details will be approved by the City prior to construction. On-street parking shall not be permitted on arterial highways within Marblehead Coastal, (Avenida Vista Hermosa, El Camino Real and Avenida Pico) unless the City determines that unusual circumstances justify such parking.

404 Infrastructure Improvements

The backbone infrastructure for Marblehead Coastal will be installed concurrent with construction of highway improvements. Sewer and water capacity are generally available for the undeveloped areas designated for development. Developers of property within Marblehead Coastal will construct additional required infrastructure improvements, such as streets, water lines, sewers, storm drains, utilities, etc., in conjunction with each phase of development. In addition, the developer shall construct required public improvements coincident with each development in accordance with final engineering drawings approved by the City Engineer. The developer shall also construct and/or participate in a proportionate share of off-site facilities as deemed necessary by the City Engineer and in accordance with the Regional Circulation Financing and Phasing Program (RCFPP) and other City master plans and programs. When required by the City, public facilities shall be extended to and beyond the Marblehead Coastal boundaries to serve adjacent properties. When such extensions are required, the City may require subsequent reimbursement by benefiting property owners and/or developers by means of a reimbursement agreement or other mechanism.

I. WATER AND WASTEWATER SYSTEMS

Distribution water mains, reclaimed water mains and sewer trunk lines will be installed throughout Marblehead Coastal in accordance with Figures 2-14, 2-15 and 2-17, and shall be consistent with the City’s Water and Wastewater Master Plans. (Please refer to the Marblehead Coastal Water and Sewer Master Plan for additional details). If and when up grading of facilities is necessary to serve future development, the parameters and obligations shall be set forth in conditions of approval on new development projects. When such facilities are required, the City may require subsequent reimbursement
developers, by benefiting property owners and/or developers by means of a reimbursement agreement or other mechanism.

The City’s 1994 Reclaimed Water Master Plan calls for the use of reclaimed water for irrigation purposes along certain arterial highway landscape segments and other major slopes. As part of the development review process, new development will be required to tie into the City’s reclaimed water system if and when it becomes available.

II. DRAINAGE SYSTEM

The drainage from Marblehead Coastal flows to several destinations including the Segunda Deschecha Flood Control Channel and existing facilities in El Camino Real. The area tributary to this major drainage course will remain unchanged, resulting in no diversion of drainage.

Detention and on-site drainage facilities will be designed and constructed in conformance with the requirements established by the City Master Plan of Drainage to protect downstream properties from flooding. The cost of construction of certain Master Plan facilities may be credited against future local drainage fees. Please refer to Exhibit 2-15 for additional details.

The runoff from the commercial area and areas upstream from the commercial area will be collected in a pipe and routed to two large City underground storage vaults in the commercial area for controlled release by the City to the City Wastewater Treatment Plant (WRP). Existing off-site low flow will continue to discharge into the Marblehead Canyon wetlands preservation area. During storm conditions flood waters will be directed around the canyon wetlands to preserve to avoid undesired erosion and will outlet directly into the three detention basins to again be collected in a pipe at the south end of the Marblehead site. Detained storm waters from the detention basins (as they are gradually released) will flow into existing culverts under El Camino Real. Low flows will be pumped from El Camino Real to the City WRP.

405 Funding of Public Facilities

The applicant or developer shall construct improvements and pay fees as required to comply with the City’s General Plan and through established mechanisms for the funding of public facilities serving the Marblehead Coastal community include the following:

I. REGIONAL CIRCULATION FINANCING AND PHASING PROGRAM

The Regional Circulation Financing and Phasing Program (RCFPP) was established by ordinance as a funding mechanism for certain citywide circulation improvements, including the Vista Hermosa Interchange. Fees are normally collected prior to the issuance of building permits and have been pre-determined by ordinance, based on an allocation system. However, because the construction of the interchange must precede occupancy of the commercial area, funds for the interchange will be paid at the appropriate time to allow for design and construction of the interchange with credits applied against the RCFPP fees and reimbursement agreements where appropriate.
II. TRANSPORTATION CORRIDOR FEE

The Transportation Corridor Area of Benefit fees are administered by the Foothill/Eastern Transportation Corridor Agencies for the construction of the Foothill Transportation Corridor. These fees are also collected prior to the issuance of building permits and based on square footage of building area for commercial projects. For residential projects, fees are determined by residential type.

III. WATER ACREAGE ASSESSMENT FEE

An acreage based water fee is collected prior to final tract map approval.

IV. SEWER ASSESSMENT DISTRICT 85-1

The parcels within the Marblehead Coastal property have been assessed for the expansion of the City’s Wastewater Treatment Plant. The assessment amount is collected with the annual property tax bill.

There are procedures in place to annex new parcels into the district and transfer apportionment from one parcel to another if necessary.

V. CAPISTRANO UNIFIED SCHOOL DISTRICT FEE

The City requires that prior to the issuance of building permits, evidence must be provided that school facility fees authorized by State legislation have been paid to the Capistrano Unified School District. The fees are based on square-footage of building area.

VI. PUBLIC FACILITIES FEE

The City has established a Public Facilities Fee to be assessed to new development within the City. This will fund new civic center facilities within San Clemente, and offset the increasing costs of fire protection and other public safety services. Since the Marblehead Coastal Planning Areas designated for residential use are within the coastal zone, the Beach Parking Fee component will not be applicable.

VII. PARK ACQUISITION AND DEVELOPMENT FEES

The City has established a Park Acquisition and Development Fee Program in accordance with the Quimby Act. Dedication of land and improvements for Marblehead Coastal Parks will allow credits to be applied toward any Park Acquisition and Development Fee obligations. The applicant will be required to dedicate, rough grade, construct and stub utilities to the Marblehead Coastal Parks and the 8.6 acres of General Open Space adjacent to the future interchange and Shorecliffs Middle School, and improve a public trail system through the central canyon, linking to a public trail along the recontoured bluffs adjacent to El Camino Real.

VIII. DRAINAGE FEES

In lieu of payment of any drainage fees, all on-site storm drain facilities will be provided by the Marblehead Coastal project. No drainage fees will be paid.
406 Maintenance Responsibilities

Facilities to be maintained within Marblehead Coastal include certain infrastructure improvements, common areas, public facilities, private residential streets, etc. In order to ensure that all of these are well maintained, this Section sets forth the responsibilities of different persons and other entities for their maintenance. It is assumed that a development agreement will assign ultimate maintenance responsibilities. Table 4-1 assigns the long-term maintenance responsibilities for each area/facility within Marblehead Coastal.
<table>
<thead>
<tr>
<th>Item</th>
<th>Example Improvement Area</th>
<th>Property Owner Association **</th>
<th>City</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private Hillside Open Space</td>
<td>Slopes</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Private Open Space</td>
<td>Lot K, L, M Dudley</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Private Wetlands/Areas</td>
<td>Canyon, Park</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Private Common Areas (incl. Lot V)</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Marblehead Coastal Ocean View Parks: Sunset Park, Canyon View Park, Pico Park</td>
<td>Lots E, G, H, I</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Jim Johnson Memorial Sports Park</td>
<td>Lot MM Between AVH Interchange and Shorecliffs Middle School</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Public Streets – Pavement, curb, gutter (Excluding parkways, but including medians – see below)</td>
<td>AVH, Pico, El Camino Real, Ave. Costa Azul, Via Artemesia</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Private Streets</td>
<td>Project Streets</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Public Street Lighting</td>
<td>City Streets</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Private Street Lighting</td>
<td>Project Streets</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Public Storm Drains</td>
<td>Storm drains with “Public” flow in AVH, Pico</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Private Storm Drains</td>
<td>On-site and private flow only</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Private Detention Basins (3)</td>
<td>Marblehead Canyon</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Public Arterial Highway Median</td>
<td>AVH, Pico</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Public Street Trees</td>
<td>AVH, Pico, El Camino Real, Ave. Costa Azul, Via Artemesia</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Private Landscaped Parkways</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Sidewalks*</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Public Bike trails</td>
<td>(Off—road)</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Public Recreation Trails</td>
<td>Canyon</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Private Recreation Trails</td>
<td>Lot M, Lot V, etc.</td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

**NOTE:**
* Refer to City Ordinance No. 1115.
** Homeowner/Property Owner Association defined by adopted CC&Rs for Marblehead Coastal, Marblehead Courtyards, Plaza San Clemente Maintenance Association (AVH only) and related maintenance associations.

### 407 Future Conditions of Approval

This Section references the Conditions of Approval for the Tentative Tract Maps, Site Plans, Coastal Commission and/or other entitlements Conditions of Approval. Please see Appendix C.
Chapter 5

DEVELOPMENT STANDARDS

501 Residential Development Standards (RL)
502 Regional Commercial Standards (RC 1)
503 Coastal/Recreation Commercial (CRC1)
504 Public Open Space Standards (OS 1)
505 Private Open Space Standards (OS2)
506 General Open Space Standards (OS3)

501 Residential Development Standards (RL)

I. PURPOSE AND APPLICABILITY

A. Purpose - The residential development standards are established to regulate single-family residential development at a maximum density of 4.5 dwelling units per gross acre.

B. Applicability - This Section constitutes the residential zoning regulations and applies to Planning Areas 2A and 2B as depicted on Exhibit 2-1 of this Specific Plan.

C. Standards Not Listed - Whenever a standard or regulation is not set forth in this Specific Plan, the Zoning Ordinance shall regulate.

D. Land Uses Not Listed - In cases where it is not clear whether a proposed land use is permitted under this Section, the Administrative Section (17.04.040) of the City Code shall determine if the use is consistent with the Purpose set forth above and is either permitted as a principal, conditional, accessory, or temporary use, or is not permitted.

E. Design Guidelines - All development under this Section is also subject to the Design Guidelines set forth in Chapter 3.

F. Site Plan Permits - All development under this Section is subject to a Site Plan Permit in accordance with Chapter 6.

G. Architecture Permits – All development under this Section is subject to an Architecture Permit in accordance with Chapter 6.

II. PRINCIPAL USES PERMITTED

The following uses for the RL zone shall be permitted and are subject to site plan permit review and architectural permit:

A. Conventional subdivisions, including single-family detached dwellings. (See Section VII, Development Standards for Conventional Subdivisions: Table 5-1).
B. Planned Unit Developments (PUDs), including zero lot line homes, patio homes, and townhouses. (See VIII., Development Standards for Planned Unit Developments: Table 5-2).

C. Private parks and open space.

D. Small family day-care homes (per current city definition).

E. Custom homes and Custom Lot Subdivisions.

F. Guest House.

G. Grading, Emergency or Minor (Not Accompanying a Development Request per Section 17.28.130, City Zoning).

III. CONDITIONAL USES PERMITTED

The following uses for the RL zone shall be allowed, subject to City approval of a Conditional Use Permit or Minor Conditional Use Permit in accordance with the Zoning Ordinance:

A. Large family day-care homes (per current city definition).

B. Grading, Major (not accompanying a development request per Section 17.28.130, City Zoning).

C. Clubhouses (Private) in conjunction with Recreational Uses.

IV. ACCESSORY USES AND STRUCTURES PERMITTED

A. Entry monuments, pools, fences, walls, patios, patio covers, garages, carports, tool and garden sheds, gazebos, and barbecues in accordance with the Zoning Ordinance.

B. Home occupations in accordance with the Zoning Ordinance.

C. Satellite dish antennas in accordance with the Zoning Ordinance. Roof-mounted dish antennas are prohibited.

D. Other accessory uses and structures determined by the City Planner to be normally incidental to a permitted principal or conditional use, such as a gatehouse or guesthouse.

V. TEMPORARY USES AND STRUCTURES PERMITTED

A. Construction activities, including offices and materials and equipment storage.

B. Model home complexes and temporary real estate sales offices in accordance with the Zoning Ordinance. A minor conditional use permit is required.
VI. GENERAL DEVELOPMENT STANDARDS

A. Maximum Density Allowed - No more than 4.5 dwelling units per gross residential acre shall be permitted. The total number of single-family detached residential dwelling units permitted in Marblehead Coastal shall not exceed 313.

B. Maximum Dwelling Units Per Numbered Lot - For conventional subdivisions, one dwelling unit plus one guesthouse per numbered lot shall be permitted. For Planned Unit Development (PUDs), there shall be no maximum number of dwelling units per numbered lot, as long as the maximum density standard of 4.5 dwelling units per gross acre is not exceeded. The purpose of the planned unit development (PUD) standards contained in Section VII is to provide flexible regulations in order to foster innovation, variety, and amenities, in the design of livable neighborhoods. The overall intent is to provide for increases in project quality over conventional subdivisions, rather than for increases in unit yields or substandard development.

C. Minimum Numbered Lot Size - For conventional subdivisions, the minimum numbered lot size shall be 5,000 square feet. For PUD’s, there is no minimum numbered lot size, but the minimum project area shall be 5 acres.

D. Minimum Numbered Lot Width - For conventional subdivisions, the minimum numbered lot width shall be 50 feet. For PUD’s, there shall be no minimum numbered lot width.

E. Minimum Setback From Private Local Streets - The minimum setback to any habitable portion of the dwelling unit shall be 10 feet. Front entry garages may be located a minimum of 18 feet from the back of sidewalk. Side entry garages maybe located a minimum of 10 feet from the back of sidewalk. Automatic garage door openers are required if the garage setback is less than 20 feet. Automatic sectional roll-up doors are required.

F. Minimum Side Setback - For conventional subdivisions, the minimum side setback shall be 5 feet. For PUD’s, there is no minimum side setback, but there shall be a minimum of 10 feet between structures.

G. Minimum Rear Setback - The minimum rear setback shall be 15 feet, and where rear yards abut project fuel modification zone I (measured from property line to building) – or where noted on “Precise Fuel Management Plan” a 20 foot combustible free zone shall be maintained.

H. Minimum Setback From Arterial Highways - The minimum setback from an arterial highway right-of-way shall be 50 feet. Accessory structures may be located less than 50 feet from an arterial highway right-of-way, but shall in no case be located closer than 30 feet from an arterial highway right-of-way. In case of a conflict with the Zoning Ordinance, the more restrictive provision shall apply.

I. Minimum Rear Setback for Lots Adjacent to Canyons - The minimum rear setback shall be 20 feet (measured from top of slope to building) for structures on lots adjacent to Canyons, or where noted on “Precise Fuel Management Plan, a 20 foot combustible free zone shall be maintained (See Exhibit 5-1).

Patio slabs, decks, swimming pools, and/or other accessory uses and structures may encroach into this 20 foot setback area up to 5 feet of the property line,
provided they are in compliance with the Zoning Ordinance provisions for such improvements, the recommendations of City approved geotechnical reports, and if over 72 inches in height must be located outside the 10 foot corner triangle restricted zones (see Exhibit 5-1).

J. Maximum Height - The maximum building height shall be 35 feet, not to exceed two stories.

K. Minimum Useable Open Space Area Required for PUD’s - There shall be a minimum of 500 square feet of usable open space area per dwelling unit for a PUD. The required useable open space area may be located within individual yards or in common area(s) accessible to all dwelling units within the development.

L. Maximum Site Area Coverage - The maximum Site coverage, including any numbered lot area covered by a solid roof shall be 60%. Patio covers with spaces between roof slats shall be exempt from this lot coverage limitation. There will be no maximum site area coverage for a PUD.

M. Fences, Walls, and Hedges - Pursuant to the Zoning Ordinance, fences, walls, and hedges serving the same purpose as a fence shall be no greater than 6 feet in height within required side and rear setback areas, and 3’ - 6” in height within required front setback areas and exterior side setback areas abutting a street. Walls adjacent to scenic highways shall conform to Approved Residential Site Plan (AM SPP 97-16), as amended. Where swimming pools are located, fences must comply with the City’s safety standards for swimming pool fences. Refer to zoning for retaining wall standards.

N. Signs - Residential signs shall be permitted in accordance with the Sign Ordinance.

O. Recreational Vehicle Storage - The parking or storage of boats, trailers, recreational vehicles, or similar vehicles shall conform to the Zoning Ordinance. Further, such parked or stored vehicles shall be screened so as not to be visible from any scenic highway.

P. Swimming Pools and Spas - Swimming pools, spas, and similar facilities shall be regulated by the Zoning Ordinance.

Q. Patio Covers, Porches, Decks, and Stairways - Patio covers, porches, decks, stairways, and similar structures shall be regulated by the Zoning Ordinance and this Chapter (* See H & I).

R. Minor Exceptions to Standards - In order to foster design creativity and innovation, the Planning Division may grant minor exception permits to the standards in this Section VI. in accordance with the Zoning Ordinance if it determines that all of the requirements of the Minor Exception Permit of the Zoning Ordinance have been satisfied.

S. Parking Requirements - The number of required parking spaces and parking space dimensions shall be in accordance with the Zoning Ordinance.
T. **Minimum Private Street and Driveway Widths:**
- Driveway (1 unit) 16 feet
- Driveways providing access to 4 or fewer units: 18 feet
- Driveways providing access to more than 4 units: 24 feet
- Private streets with parking on one side only: 28 feet
- Private streets with parking on both sides: 36 feet

U. **Minimum Flag Lot Requirements** - A flag lot may be a minimum of 20 feet wide at street right-of-way, provided that if it adjoins any other flag lots that it shares a common paved apron as measured from back of sidewalk to street.
- **5' Setback From Rear Property Line** - No landscaping, solid fences/walls or structures over 42" in height. View fences along property line may be maximum of 72" in height.

- **10' Restricted Zone Triangle** - View Fences and landscaping along property line within this triangle may be 72" in height.

- **20" Building Setback** - No buildings permitted within 20" of property line under a canyon adjacent condition. Patio slabs, decks, swimming pools, gazebos, and/or other accessory uses and structures may encroach into this setback area up to 5' of the property line.

*NOTES:

1. Where rear yards are adjacent to canyons (measured from top of slope to building) a 20' building setback shall be maintained.

2. Where rear yards abut a project fuel modification zone (measured from property line to building) a 20' combustible free zone shall be maintained.
VII. DEVELOPMENT STANDARDS FOR CONVENTIONAL SUBDIVISIONS

TABLE 5-1
DEVELOPMENT STANDARDS FOR CONVENTIONAL SUBDIVISIONS

<table>
<thead>
<tr>
<th>STANDARD</th>
<th>RL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Dwellings Units per Lot</td>
<td>1 principal residence plus one guesthouse</td>
</tr>
<tr>
<td>Maximum Height</td>
<td>35 feet, not to exceed 2 stories</td>
</tr>
<tr>
<td>Maximum site coverage (solid roofs)*</td>
<td>60%</td>
</tr>
<tr>
<td>Minimum Lot Area</td>
<td>5,000 feet</td>
</tr>
<tr>
<td>Minimum Lot Width</td>
<td>50 feet</td>
</tr>
<tr>
<td>Minimum Front Setback from Public Street</td>
<td>18 feet (from back of sidewalk)</td>
</tr>
<tr>
<td>Minimum Front Setback from Private Street</td>
<td>10 feet/18 feet (from back of sidewalk)</td>
</tr>
<tr>
<td>Minimum Side Setback from Interior Property Line</td>
<td>5 feet</td>
</tr>
<tr>
<td>Minimum Rear Setback from Canyons</td>
<td>20 feet ***</td>
</tr>
<tr>
<td>Minimum Rear Setback</td>
<td>15 feet/20 feet ***</td>
</tr>
<tr>
<td>Minimum Lot Frontage on Straight Streets</td>
<td>50 feet</td>
</tr>
<tr>
<td>Minimum Lot Frontage on Curved Streets</td>
<td>35 feet, except for flag lots</td>
</tr>
<tr>
<td>Minimum Flag Lot Requirements</td>
<td>20 feet wide; common Apron at Street</td>
</tr>
<tr>
<td>Parking Requirements</td>
<td>A minimum of 2 parking spaces per dwelling shall be provided in a garage and shall be kept accessible and usable at all times. Where adequate on-street parking is not available, a minimum of 0.2 uncovered guest spaces per unit shall be provided (rounded to the nearest higher whole number).</td>
</tr>
</tbody>
</table>

* Site coverage includes any lot area covered by a solid roof (thru, for example, patio covers with spaces between roof slats shall be exempt from this lot coverage limitation).

** Where garages are less than 20 feet from the private street, automatic garage door openers are required. Sectional roll-up garage doors are required.

*** Patio slabs, decks, swimming pools and/or other accessory uses and structures may encroach to within 5 feet of the property line, and if over 72 inches in height must be located outside the 10 foot corner triangle restricted zones (see Exhibit 5-1). Where rear yards abut a project fuel modification zone (measured from property line to building) a 20’ combustible free zone shall be maintained.
VIII. DEVELOPMENT STANDARDS FOR PLANNED UNIT DEVELOPMENTS

The purpose of the Planned Unit Development (PUD) standards contained in this section is to provide flexible regulations in order to foster innovation, variety, and amenities in the design of livable neighborhoods. The overall intent is to provide for increases in project quality over conventional projects, rather than for increases in unit yields or substandard development.

**TABLE 5-2**
DEVELOPMENT STANDARDS FOR PLANNED UNIT DEVELOPMENTS

<table>
<thead>
<tr>
<th>STANDARD</th>
<th>RL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Dwellings Units per Lot</td>
<td>No maximum provided the density standard is not exceeded.</td>
</tr>
<tr>
<td>Minimum PUD Site Area</td>
<td>5 acres</td>
</tr>
<tr>
<td>Minimum Usable Private or Common Open Space Area Required per Unit</td>
<td>500 square feet</td>
</tr>
<tr>
<td>Minimum Lot Area</td>
<td>None</td>
</tr>
<tr>
<td>Minimum Lot width</td>
<td>None</td>
</tr>
<tr>
<td>Minimum Setback from Arterial Highway</td>
<td>30 feet</td>
</tr>
<tr>
<td>Minimum Setback from Public Street</td>
<td>20 feet</td>
</tr>
<tr>
<td>Minimum Setback from Private Street</td>
<td>5 feet *</td>
</tr>
<tr>
<td>Minimum Setback from Another Building</td>
<td>10 feet</td>
</tr>
<tr>
<td>Maximum Height</td>
<td>35 feet, not to exceed 2 stories</td>
</tr>
<tr>
<td>Parking Requirements</td>
<td>A minimum of 2 parking spaces per dwelling shall be provided in a garage and shall be kept accessible and usable at all times. Where adequate on-street parking is not available, a minimum of 0.2 uncovered guest spaces per unit shall be provided (rounded to the nearest higher whole number).</td>
</tr>
<tr>
<td>Note: Parking space dimensions shall be in accordance with the Zoning Ordinance (see Appendix B for the appropriate Zoning Ordinance Section).</td>
<td>A minimum of 2 parking spaces per dwelling shall be provided in a garage and shall be kept accessible and usable at all times. Where adequate on-street parking is not available, a minimum of 0.2 uncovered guest spaces per unit shall be provided (rounded to the nearest higher whole number).</td>
</tr>
</tbody>
</table>

* Automatic sectional roll-up garage doors are required if setback is less than 20 feet.
502 Regional Commercial Standards (RC1)

I. PURPOSE AND APPLICABILITY

A. **Purpose** - The Regional Serving Commercial component to Marblehead Coastal is intended to provide a comprehensive menu of high quality goods and services for San Clemente’s visitors. The Specific Plan creates this prime commercial site in order to build a meaningful tax base for the City, create a place for land uses that are appropriate for freeway accessibility, create needed commercial stability in the community, and establish an outstanding image for San Clemente and surrounding residential areas.

The Marblehead Coastal Regional Commercial Center will comprise entertainment activities, outlet stores, general retail, specialty retail, potential lodging, and support retail all within a design and scale that supports San Clemente’s “Village by the Sea” architectural theme.

B. **Applicability** - This Section applies to Planning Area 1A as depicted on Exhibit 2-1 of this Specific Plan.

C. **Standards Not Listed** - Whenever a standard or regulation is not set forth in this Specific Plan, the Zoning Ordinance shall regulate. An index of Zoning Ordinance sections is listed in the Appendix B of this Specific Plan.

D. **Design Guidelines** - All development under this Section is also subject to the Design Guidelines set forth in Chapter 3.

E. **Site Plan Permits** - All projects regulated by this Section shall be subject to a Site Plan Permit in accordance with Chapter 6.

F. **Architectural Permits** - All projects regulated by this Section shall be subject to a Site Plan Permit in accordance with Chapter 6.

II. PRINCIPAL USES PERMITTED

All uses shown as permitted in Table 5-3 for the RC 1 zone shall be permitted.

III. CONDITIONAL USES PERMITTED

All uses conditionally permitted are shown in Table 5-3 for the RC1 zone. Requirements for a Conditional Use Permit or a Minor Conditional Use Permit, are as determined by the Zoning Ordinance.

IV. TEMPORARY USES AND STRUCTURES PERMITTED

A. Construction activities, including necessary construction offices and materials and equipment storage shall be in accordance with the Zoning Ordinance.

B. Outdoor sales or promotional events such as parking lot sales or the sale of Christmas trees or other seasonal items shall be in accordance with the Zoning Ordinance.
V. DEVELOPMENT STANDARDS

The regional commercial center will be developed within a design and scale that supports San Clemente’s “Village by the Sea” architectural theme. All buildings shall be pedestrian oriented, with a series of landscaped paseos that divide parking areas and connect all buildings/use areas on site. Project boundary treatments, including the area adjacent to Interstate 5, shall provide an interesting landscape treatment that screens open parking, loading areas, and incorporates perimeter design components such as water features, walls and/or trellis features to further soften the building edge. Building height and massing must meet the minimum requirements of the design guidelines and development standards sections of the Specific Plan.

There will be no requirement for the exact placement of uses. However, strict standards ensure the 51.5-acre RC1 site can only be developed as an integrated center with criteria that strictly prohibits uses that are inappropriate for the freeway setting or potentially competitive with other existing uses within the community. Further, dividing this parcel at a later date for alternative land uses not identified is strictly prohibited.

The following are general design requirements that are incorporated within the Specific Plan:

- Uses should be basically visitor serving or of a regional commercial nature, not competitive with other existing or approved retail within the community.

- The entertainment and factory outlet complexes are required to be developed as clusters of related and complimentary uses, rather than distributed indiscriminately within the 51.5-acre commercial development.

- General Retail uses should be contained within a variety of building sizes and shapes to avoid the appearance of a “strip center, or a monolithic building mass.

- Outlet stores shall all primarily sell merchandise within a factory direct retail environment. These stores must also comply with the criteria provided in the Specific Plan.

- Parking should be distributed around the building clusters and divided into a series of smaller lots rather than aggregated into large expanses of parking and asphalt.

- Landscaping and outdoor use areas should be utilized to soften building masses, define pedestrian and vehicular circulation, and create outdoor activity areas.

- Roof planes, overhangs and covered walkways, and variations in building heights should be utilized to create visual diversity and avoid monolithic building masses.

- Strong pedestrian linkages should be utilized to connect building clusters and outdoor use areas, and to provide opportunities for connections to the surrounding community.
• A comprehensive site plan for the entire 51.5-acre regional commercial center shall be approved prior to any development within this area. If future modifications are proposed to any portion of the 51.5-acres, they shall not be approved without a re-approval of the entire comprehensive 51.5-acre site plan.

• If development of the comprehensive site plan is to be phased, initial phases shall be required to create the major pedestrian spaces within this area by constructing buildings on all sides of major pedestrian walkways. If phasing is proposed it shall be shown on the comprehensive site plan and approved as a part of that site plan.

• The outlet complex tenant mix shall contain a minimum of 75% of the allowable building square footage as “factory outlet” stores that sell only a single brand of merchandise.

• No general retail business tenant shall have a floor area that exceeds 20,000 square feet without a Conditional Use Permit approval.

A. Minimum Lot Area - The minimum Lot area for a Site Plan shall be a 51.5-acre comprehensive plan with uses as contained in Table 5-3. (Note: Per Resolution 04-61, Commercial Site Plan COA 39, an Amended Site Plan for Buildings 12, 13, 14 & 15 will be required if hotel and conference center are not developed.)

B. Maximum Floor Area Ratio - The maximum Floor Area Ratio (FAR) for the project area shall be 0.35. Individual parcels within a Site Plan Permit area need not comply with this FAR, as long as the overall Site Plan area FAR does not exceed 0.35.

C. Maximum Project Area Coverage - The maximum project area coverage shall be 50%. Individual parcels within a Site Plan Permit need not comply with this maximum coverage, as long as the overall Site Plan area coverage, including parking structures, does not exceed 50%.

D. Maximum Height - The maximum height to the top of the roof or highest projection shall be 45 feet. The maximum average height to the plate line of a building shall be 37 feet. Exceptions to this maximum building height are permitted for a theater [Approved Site Plan defines as Building 22] and parking structure in the entertainment portion of the regional commercial center. The maximum average height to the plateline of a parking structure shall be 40 feet and to the plateline of a theater shall be 55 feet. The maximum height to the highest projection of an architectural feature for a theater or clocktower is 62 feet.

E. Setbacks for Structures - The minimum average setback of all buildings with frontage along arterial streets, including those set back towards the rear of the commercial center (but directly visible from these streets), shall be 50 feet.

F. Setbacks for Structures - The minimum setback from the property line along I-5 (I-5 right-of-way) shall be 30 feet. For buildings with average platelines of up to 30 feet high (excluding architectural features such as towers) adjacent to Avenida Pico or Avenida Vista Hermosa, the minimum setback, as measured
from right-of-way, shall be 30 feet. Architectural projections (such as architectural towers, arcades or trellises) may encroach to a maximum of 5 feet into the 30-foot minimum setback.

G. **Landscaping** - Landscaped buffers shall be provided at the project perimeter shall be at least 20 feet average wide along each Scenic Highway frontage (Avenida Vista Hermosa and Avenida Pico) with 15 feet minimum at any point. The total amount of landscaped area shall be at least 15% of the site. No parking shall be allowed within the required landscaped areas, except for car overhangs (2 feet maximum). Landscaping may include accessory decorative outdoor landscape elements such as pedestrian plazas and enhanced walkways. Enhanced walkways include the use of such elements as arcades, trees, planters, planter pots, trellises, seating and tables. Decorative outdoor landscape elements may count toward the minimum 15% landscape requirement.

H. **Signs** - Signs shall be permitted in accordance with the City Sign Ordinance, except as modified by a Sign Program for the site.

All signs within the entertainment complex pedestrian plaza area may be designed in a manner that promotes diversity and imagination, in a scale proportional to the pedestrian oriented businesses. The following types of signs are considered acceptable provided they are oriented to the plaza, with a maximum height of 50 feet for the theater and the eave line for the lower buildings:

- Moving or revolving
- Wind Driven
- Blinking, flashing, or animated
- Neon accented, fiberoptic, or signs simulating motion

I. **Parking** - The dimensions and design of the parking area, as well as the number of parking spaces required shall be determined by the Zoning Ordinance for the uses established.

J. **Kiosks** - Outdoor food stands, newspaper stands, flower stands, ice cream or other vendors, push carts, permanent or temporary shall be allowed by Conditional Use permit only.
TABLE 5-3
PERMITTED AND CONDITIONAL USES WITHIN COMMERCIAL ZONES

The uses listed in the following table are permitted if designated by a “P.” If designated by a “C”, the use is conditionally permitted, subject to the approval of a Conditional Use Permit or if by a “MC,” a Minor Conditional Use Permit as determined by the Zoning Ordinance. Those uses designated with an “O” are considered part of the City’s Alternative Review Process. Those uses designated with an “NP” are not permitted, or prohibited uses.

Land Uses Prohibited – Uses that have been excluded from Table 5-3, “Permitted and Conditional Uses within Commercial Zones,” unless they are found by the City Council to be similar to permitted or conditionally permitted uses.

Conditional Uses – All uses conditionally permitted are shown in Table 5-3. In addition to the uses designated as conditionally permitted within the RC1 zone, any general retail use proposed to occupy a building square footage greater than 20,000 square feet shall also require Conditional Use Permit approval.

<table>
<thead>
<tr>
<th>USE</th>
<th>CRC1</th>
<th>RC1</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Commercial Uses</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Antiques (Retail Sales)</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Art Galleries</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Baby Stores</td>
<td>NP</td>
<td>P</td>
</tr>
<tr>
<td>Bakery Goods/Sales (No Wholesale Distributors)</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Barber Shops</td>
<td>P</td>
<td>NP</td>
</tr>
<tr>
<td>Beauty Salons/Body Care, Beauty Supply</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Bicycle Shops</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Bookstores</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Card &amp; Gift Stores</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Carpet Sales</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Ceramics (Retail Sales)</td>
<td>MC</td>
<td>P</td>
</tr>
<tr>
<td>Cleaners and Laundromats (No Linen Service)</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Coffee House/Sales</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Clothing (Retail Sales)</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Confectionery Stores (Small Scale Production with Retail Sales)</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Convenience Stores</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Cutlery Stores</td>
<td>NP</td>
<td>P</td>
</tr>
<tr>
<td>Department Stores</td>
<td>NP</td>
<td>P</td>
</tr>
<tr>
<td>Discount or Off-Price Stores</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Drug Stores/Pharmacies</td>
<td>P</td>
<td>NP</td>
</tr>
<tr>
<td>Electronics (Retail Sales and Repair)</td>
<td>NP</td>
<td>P</td>
</tr>
<tr>
<td>Eye Care</td>
<td>NP</td>
<td>P</td>
</tr>
<tr>
<td>Fabric Stores</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Florist (Retail Sales)</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Floor Covering</td>
<td>NP</td>
<td>P</td>
</tr>
<tr>
<td>Furniture Stores (Retail Sales)</td>
<td>NP</td>
<td>P</td>
</tr>
<tr>
<td>Glass/Mirror Sales/China</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Grocery/Food Stores (Not Convenience Stores)</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Gunsmith/Gun Shops (associated with sporting goods sales)</td>
<td>NP</td>
<td>C</td>
</tr>
<tr>
<td>Hardware Stores/Home Improvement</td>
<td>NP</td>
<td>NP</td>
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<tr>
<td>Housewares</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Home Appliance Stores (Retail Sales and Repair)</td>
<td>P</td>
<td>P</td>
</tr>
</tbody>
</table>

Adopted August 5th, 1998
First Amendment Adopted August 21st, 2007
### 2. Hospital Uses

<table>
<thead>
<tr>
<th>USE</th>
<th>CRC1</th>
<th>RC1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ambulance Services</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Ancillary Uses (Minor) to Hospital, such as Laboratories, Florists, Parking Lots.</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Hospitals</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Veterinary/Animal Hospital or Animal Boarding</td>
<td>NP</td>
<td>NP</td>
</tr>
</tbody>
</table>

### 3. Lodging

<table>
<thead>
<tr>
<th>USE</th>
<th>CRC1</th>
<th>RC1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bed and breakfast Inns</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>5 or Fewer Guest Rooms</td>
<td>P</td>
<td>P</td>
</tr>
</tbody>
</table>

Adopted August 5th, 1998
First Amendment Adopted August 21st, 2007
Chapter 5 – Development Standards

Adopted August 5th, 1998
First Amendment Adopted August 21st, 2007

<table>
<thead>
<tr>
<th>USE</th>
<th>CRC1</th>
<th>RC1</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 to 10 Guest Rooms</td>
<td>MC</td>
<td>MC</td>
</tr>
<tr>
<td>Over 10 Guest Rooms</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Hotel and Ancillary Uses</td>
<td>C</td>
<td>P</td>
</tr>
<tr>
<td>Motels</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Restaurants/Coffee Shop (Internal to hotel building, not free standing)</td>
<td>NP</td>
<td>P</td>
</tr>
<tr>
<td>Timeshares</td>
<td>C</td>
<td>C</td>
</tr>
</tbody>
</table>

4. **Professional Offices, Financial Institutions and Related Uses**

<table>
<thead>
<tr>
<th>Use</th>
<th>CRC1</th>
<th>RC1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Banks/Financial Institutes</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>With Drive-thru facilities</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Employment Agencies</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Newspaper Publication and Office</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Office/Business Park Complex</td>
<td>NP</td>
<td>C</td>
</tr>
<tr>
<td>Offices, Medical</td>
<td>NP</td>
<td>P</td>
</tr>
<tr>
<td>Offices Professional</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Offices, Veterinary/Animal Hospital</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Secretarial Services</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Telemarketing</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Travel Agencies</td>
<td>MC</td>
<td>P</td>
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</tbody>
</table>

5. **Public/Quasi Public and Institutional Uses**

<table>
<thead>
<tr>
<th>Use</th>
<th>CRC1</th>
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<tbody>
<tr>
<td>Churches</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Club/Social Organizations</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Congregate Care Facility</td>
<td>NP</td>
<td>NP</td>
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<tr>
<td>Convalescent Home</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Day Care Facilities</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Small Day Care Home</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Large Day Care Home</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Day Care Center</td>
<td>NP</td>
<td>C</td>
</tr>
<tr>
<td>Libraries</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Parking Lots (commercially operated fee lots)</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Parking Structures</td>
<td>C</td>
<td>P</td>
</tr>
<tr>
<td>Parks</td>
<td>O</td>
<td>NP</td>
</tr>
<tr>
<td>Private Instruction (Dance, Music, Modeling)</td>
<td>C</td>
<td>P</td>
</tr>
<tr>
<td>Public Utilities (per Section 17.28.240 of the City Code)</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>City-Initiated Projects</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>Projects Initiated by Outside Agency</td>
<td>NP</td>
<td>NP</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Use</th>
<th>CRC1</th>
<th>RC1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Major Utilities</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Minor Utilities</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>City-Initiated Projects</td>
<td>O</td>
<td>O</td>
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</tbody>
</table>

6. **Residential Uses**

<table>
<thead>
<tr>
<th>Use</th>
<th>CRC1</th>
<th>RC1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Senior Housing Project</td>
<td>NP</td>
<td>C</td>
</tr>
</tbody>
</table>

7. **Restaurants**

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1. Offices on ground floor frontage in CRC1 zone shall not be permitted unless evidence is presented which indicates retail commercial uses would not be viable.

2. Major utilities shall include, but shall not be limited to, reservoirs, utility substation, including electrical distribution and transmission substations, and aboveground pump stations, such as sewage and potable water system pump stations, antennas (other than satellite antennas and antennas on City property) and similar facilities.

3. Public utility distribution and transmission line towers and poles, and underground facilities for distribution of gas, water, telephone and electricity shall be allowed in all zones without obtaining a Conditional Use Permit.
<table>
<thead>
<tr>
<th>USE</th>
<th>CRC1</th>
<th>RC1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bars, Cocktail Lounges (Including Dancing/Entertainment)</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Fast-Food/Drive-Thru Restaurants</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Outdoor Dining</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Restaurants</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. With No On-Site Consumption of Liquor, No Dancing, No Entertainment</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>b. With On-Site Sale of Beer and Wine</td>
<td>MC</td>
<td>MC</td>
</tr>
<tr>
<td>c. With On-Site Sale of Hard Alcohol</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>d. With Dancing and/or Entertainment</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>8. Unclassified Uses</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accessory Building</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Alcoholic Beverage Sales Concurrent with Motor Vehicle Fuel-</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Convenience Stores Sales</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amusement Centers</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Animal Grooming (only with pet supply)</td>
<td>NP</td>
<td>P</td>
</tr>
<tr>
<td>Bowling Alleys</td>
<td>NP</td>
<td>C</td>
</tr>
<tr>
<td>Drive-Thru Facilities, When in Conjunction with a Use Permitted or Conditionally Permitted in the Zone</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Grading, (Not Accompanying a Development Request)</td>
<td></td>
<td></td>
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<tr>
<td>Emergency</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Major</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Minor</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Health/Fitness/Sports Clubs and Facilities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indoor Entertainment/Amusement Center Arcades/</td>
<td>NP</td>
<td>C</td>
</tr>
<tr>
<td>Virtual reality Centers (in entertainment complex only)</td>
<td>NP</td>
<td>C</td>
</tr>
<tr>
<td>Kiosks (Outdoor food stands, newspaper stands, flower stands, ice cream or other vendors, pushcarts, permanent or temporary)</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Live Entertainment Venues</td>
<td>NP</td>
<td>P</td>
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<tr>
<td>Massage (Only as an Accessory Use to Chiropractors, Hair Salons, Sports Club)</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Mortuaries</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Pool Halls</td>
<td>NP</td>
<td>C</td>
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<tr>
<td>Recycling Facilities</td>
<td>NP</td>
<td>NP</td>
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<tr>
<td>Reverse Vending Machine</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Small Collection</td>
<td>C</td>
<td>MC</td>
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<tr>
<td>Large Collection</td>
<td>NP</td>
<td>C</td>
</tr>
<tr>
<td>Theaters (movies theaters only in entertainment complex)</td>
<td>NP</td>
<td>P</td>
</tr>
<tr>
<td>9. Vehicle Related Repair, Sales and Service</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Auto repair, servicing and/or fueling</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Car Washes</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Service/Gas Station</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Vehicle Dealerships (Sales, Leasing, Rental, New and used)</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Auto Dealership w/Fewer than 10 Cars</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>All other Vehicle Dealerships</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Vehicle Parts/Accessories Sales</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Vehicle Repair/Service, Minor</td>
<td>NP</td>
<td>NP</td>
</tr>
</tbody>
</table>
503 Coastal/Recreation Commercial Standards

I. PURPOSE AND APPLICABILITY

A. Purpose - The Coastal/Recreation Commercial development standards are established to accommodate a district emphasizing pedestrian, tourist, and beach oriented activity, with a Spanish Colonial Revival style of architecture and site design. This district promotes commercial uses at the street frontage, with office and lodging uses to the rear and on the upper stories of a structure.

B. Applicability - This Section applies to Planning Area 1B on Exhibit 2-1.

C. Standards Not Listed - Whenever a standard or regulation is not set forth in this Specific Plan, the Zoning Ordinance shall regulate. An index of Zoning Ordinance sections is listed in the Appendix B of this Specific Plan.

D. Land Uses Not Listed - In cases where it is not clear whether a proposed land use is permitted, the Administrative Section of the Code shall determine if the use is consistent with the Purpose set forth above and is either permitted as a principal, conditional, accessory, or temporary use, or is not permitted.

E. Design Guidelines - All development under this Section is also subject to the Design Guidelines set forth in Chapter 3.

F. Site Plan Permits - All development under this Section is subject to a Site Plan Permit in accordance with Chapter 6.

G. Architectural Permits - All development under this Section is subject to an Architectural Permit in accordance with Chapter 6.

II. PRINCIPAL USES PERMITTED

All uses shown in Table 5-3 for the CRC1 zone shall be permitted:

A. Pedestrian-oriented Specialty Retail Uses - Designed to serve the shopping needs of commuters, tourists and beach users, including apparel stores, art galleries, beach supply stores, book stores, flower shops, food stores, furniture shops, gift stores, jewelry stores, hobby supply stores, household goods stores, music stores, newsstands, novelty shops, recreational, surf and sport stores, tourist or recreation oriented businesses and shops, and similar uses.

B. Restaurants and Small-scale Specialty Food Establishments - Such as bakeries, candy stores, coffee houses, ice cream/frozen yogurt shops, sandwich shops, and similar businesses.

C. Service Establishments - Including banks and financial institutions, barber and beauty shops, cleaners and laundromats, dance and music studios, personal services, tailors, travel agencies, video rental and similar uses.

D. General and Professional Offices (excluding medical and dental offices) - Such as architecture, communications, media, consulting, engineering, financial, law,
real estate, and similar office uses, provided that they are not located on the
ground floor street frontage.

III. CONDITIONAL USES PERMITTED

The following uses as listed in Table 5-3 for the CRC1 zone shall be allowed subject to City approval of a Use permit or Minor Use Permit in accordance with the Zoning Ordinance.

A. Alcohol sold for consumption on or off the premises.

B. Bed-and-breakfast inns, hotels, motels, and time-share condominiums. Bed and breakfast inns shall be subject to the development standards prescribed by the City’s Zoning Ordinance.

C. Movie theaters, arcades, amusement centers, or other places of entertainment.

D. Offices on the ground floor street frontage, provided that evidence is presented which indicates that retail commercial uses would not be viable.

E. Outdoor operation of all or a portion of a principal permitted use listed in Section 503.II, and as identified within Table 5-3.

F. Public and private parking lots/structures.

G. Schools, and dance or music studios.

IV. TEMPORARY USES AND STRUCTURES PERMITTED

The sale of art, beverages, flowers, food, jewelry, newspapers, novelties, seasonal or similar items associated with City-sanctioned special events, subject to the approval by the City of a Temporary Use Permit in accordance with the Zoning Ordinance.

V. DEVELOPMENT STANDARDS

A. Maximum Floor Area Ratio - a maximum floor area ratio of 1.5 shall be allowed.

B. Maximum Height - The maximum height shall be thirty-three (33) feet, not to exceed two stories. Architectural features such as towers, cupolas, and chimneys shall be allowed to project up to forty (40) feet in height from the ground level.

C. Minimum Lot Area and Width - The minimum lot area shall be 6,000 square feet. The minimum lot width shall be 60 feet.

D. Building Setbacks - The maximum front building setback shall be five (5) feet for a minimum of seventy percent (70%) of the street frontage. There shall be no minimum front, side or rear setback.
E. **Landscaping:**

OPTION A - A minimum of ten percent (10%) of the ground level lot area shall be landscaped.

OPTION B - An amount equal to a minimum of twenty percent (20%) of the lot area may be devoted to permanently affixed landscaped planters on the upper level areas such as balconies.

The landscaping required by Option A or B above shall be visible from the street or other public places. Hardscape improvements shall not be counted toward fulfilling this requirement.

F. **Parking Requirements** - The minimum number of required parking spaces shall be as prescribed by the City's Zoning Ordinance for individual uses. In addition to parking required for non-residential uses, the required residential parking spaces shall be provided on-site for any residential use.

G. **Parking Standards** - The size, configuration, and dimensions of parking spaces, aisles, and accessways shall be as required by the City’s Zoning Ordinance, unless modified by the City’s approval of a Conditional Use Permit for valet parking.

H. **Off-Site Parking** - Off-site parking for non-residential uses shall be allowed by the City’s approval of a Conditional Use Permit, provided that it is within 1000 feet of the subject property. The applicant for such a Conditional Use Permit shall provide to the City, notarized copies of an agreement with the owner of the property designated for off-site parking, whether publicly or privately owned. The property designated for off-site parking shall provide enough parking for its own land use in addition to the off-site parking.

I. **Waivers of Parking Requirements** - Parking requirements may be modified or waived by the City in accordance with the City’s Zoning Ordinance.

### 504 Public Open Space Standards

I. **PURPOSE AND APPLICABILITY**

A. **Purpose** - The purpose of this Section is to provide for public parks and related public facilities, and to promote public recreation and cultural opportunities.

B. **Applicability** - This Section applies to the area designated OS1 on Exhibit 2-1 of this Specific Plan.

C. **Land Uses Not Listed** - In cases where it is not clear whether a proposed land use is permitted under this Section, the Planning Commission shall determine if the use is consistent with the Purpose set forth above and is either permitted as a principal, conditional, accessory, or temporary use, or is not permitted.

D. **Architecture Permit** - This permit is required for uses proposed in an OS1 zone.

*Adopted August 5th, 1998
First Amendment Adopted August 21st, 2007*
II. PRINCIPAL USES PERMITTED

A. Civic Uses.
B. Public Parks and Recreation Facilities (per Section 17.28.230 of the City Code).
C. Amphitheaters, Open Air.
D. Public and Private Infrastructure.
E. Open Space for Biological Resource Preservation.

III. ACCESSORY USES AND STRUCTURES PERMITTED

A. Bikeways and Pedestrian Trails.
B. Structures and uses incidental and accessory to permitted uses.

IV. TEMPORARY USES AND STRUCTURES PERMITTED

A. Construction activities, including necessary construction offices and materials and equipment storage in accordance with the Zoning Code (17.28.300).
B. Outdoor festivals and similar events within public parks if approved by the City through a special event permit.

V. DEVELOPMENT STANDARDS

All structures and/or parking areas shall be set back a minimum of 30 feet from any street. All other development standards shall be determined through the appropriate discretionary review process.

505 Private Open Space Standards

I. PURPOSE AND APPLICABILITY

A. Purpose - The purpose of this Section is to provide for the preservation of open space, significant biological resources, and visual resources, with limited recreation uses.

B. Applicability - This Section applies to all areas designated OS2 on Exhibit 2-1 of this Specific Plan.

C. Standards Not Listed - Whenever a standard or regulation is not set forth in this Specific Plan, the Zoning Ordinance shall regulate.

D. Land Uses Not Listed - In cases where it is not clear whether a proposed land use is permitted, the administrative section of the Zoning Code shall determine if
the use is consistent with the Purpose set forth above and is either permitted as a principal, conditional, accessory, or temporary use, or is not permitted.

E. Site Plan Review - All improvements regulated by this Section shall be subject to Site Plan Review in accordance with Chapter 6.

II. PRINCIPAL USES PERMITTED

A. Open Space.

B. Public and Private Recreation Trails and Infrastructure.

C. Reserve, for Biological Resource Preservation and Enhancement.

D. Reserve, Buffer Area.

E. Reservoir, Detention Basin.

F. Grading, Emergency or Minor (not accompanying a Development Request per Section 17.28.130, City Zoning).

III. ACCESSORY USES AND STRUCTURES PERMITTED

A. Uses incidental and accessory to permitted uses.

IV. CONDITIONAL USES PERMITTED

A. Boardwalk and interpretive signage for public educational purposes and limited access to biological reserve.

B. Structures incidental and accessory to permitted uses.

C. Security lighting.

D. Access roads.

E. Athletic fields.

F. Grading, Major.

G. Clubhouses (Private) in conjunction with Recreational Uses.

V. TEMPORARY USES AND STRUCTURES PERMITTED

A. Construction activities, including necessary construction offices and materials and equipment storage in accordance with the Zoning Code (17.28.300).
506 GENERAL OPEN SPACE STANDARDS

I. PURPOSE AND APPLICABILITY

A. Purpose - The purpose of this Section is to provide for the establishment of open space, with limited recreation uses.

B. Applicability - This Section applies to all areas designated OS3 on Exhibit 2-1 of this Specific Plan.

C. Standards Not Listed - Whenever a standard or regulation is not set forth in this Specific Plan, the Zoning Ordinance shall regulate.

D. Land Uses Not Permitted - In cases where it is not clear whether a proposed land use is permitted, the administrative section of the Zoning Code shall determine if the use is consistent with the Purpose set forth above and is either permitted as a principal, conditional, accessory, or temporary use, or is prohibited.

E. Site Plan Review - All improvements regulated by this Section shall be subject to Site Plan Review in accordance with Chapter 6.

II. PRINCIPAL USES PERMITTED

A. Open Space

B. Infrastructure

C. Athletic Fields

D. Access Roads and Parking

III. ACCESSORY USES AND STRUCTURES PERMITTED

A. Uses incidental and accessory to permitted uses.

IV. CONDITIONAL USES PERMITTED

A. Structures incidental and accessory to permitted uses, including restrooms.

B. Lighting.

C. Other public recreation facilities.

V. TEMPORARY USES AND STRUCTURES PERMITTED

A. Construction activities, including necessary construction offices and materials and equipment storage in accordance with Zoning Code (17.28.300).
Chapter 6

DEVELOPMENT REVIEW AND APPLICATIONS

601 Development Review Procedures
602 Amendments to the Specific Plan

601 Development Review Procedures

I. PURPOSE AND APPLICABILITY

The purpose of Section 601 is to specify the steps required to obtain City approval for new and supplemental development applications within the Marblehead Coastal Specific Plan area. All private development proposals within this Specific Plan area shall be reviewed and processed in accordance with the provisions of this Chapter and the Zoning Ordinance, following an initial screening by the Community Development Department. Upon a determination by the City Planner, some of the development review phases in this Section may be carried out concurrently. Except for the 51.5-acre Regional Commercial (RC1) site, when Site Plan Permits and other applications are processed concurrent with Tentative Maps, the approving body (i.e. City Council or Planning Commission) shall be the approving body stated in the Subdivision Ordinance for Tentative Map approval.

For the 51.5 acre Regional Serving Commercial (RC1 site) a comprehensive Site Plan shall be reviewed by the Planning Commission and approved by the City Council prior to any development in this area. The comprehensive Site Plan Permit shall incorporate applicable provisions as contained within the Chapter 3 Design Guidelines and the Chapter 5 Development Standards of the Specific Plan. The approved site plan shall require that each construction phase of the factory outlet or entertainment complexes include all buildings that define the accompanying pedestrian spaces. Further, pedestrian plazas, enriched paving surfaces and mall furniture be developed with each phase of development.

II. ENVIRONMENTAL REVIEW

All applications for discretionary review and approval shall be subject to environmental review in accordance with the California Environmental Quality Act (CEQA) Guidelines and City procedures.

III. TENTATIVE MAPS

Applications for approval of Tentative Tract and Tentative Parcel Maps shall be reviewed in accordance with the City’s most current Subdivision Ordinance (Chapter 35 of the Municipal Code). Preliminary grading concept plans shall be approved in association with approval of a Tentative Map. Grading concept plans shall be reviewed for consistency with this Specific Plan. The City may impose specific conditions on Tentative Maps in addition to the requirements of this Specific Plan.

Adopted August 5th, 1998
First Amendment Adopted August 21st, 2007
IV. SITE PLAN PERMITS

All applications for new development within the Marblehead Coastal Specific Plan, except for custom homes on individual lots, shall be subject to approval of a Site Plan Permit in accordance with the Zoning Ordinance. The purpose of the Site Plan Permit is to implement both the Design Guidelines in Chapter 3 of this Specific Plan, as well as the Purpose and Intent stated in the Site Plan Permits Section of the Zoning Ordinance. The City may impose specific conditions on Site Plan Permits in addition to the requirements of this Specific Plan. Applications for anything other than new development shall be reviewed and processed in accordance with the Zoning Ordinance requirements for Site Plan Permits or Minor Site Plan Permits as determined by the Zoning Ordinance. Residential Site Plan (AM SPP 97-16) and Commercial Site Plan (AM SPP 99-16) have been approved.

V. ARCHITECTURAL PERMITS

All applications for development within the Marblehead Coastal Specific Plan shall be subject to approval of an Architectural Permit in accordance with the Zoning Ordinance. The purpose of the Architectural Permit is to implement both the Design Guidelines in Chapter 3 of this Specific Plan, as well as the Purpose and Intent stated in the Architectural Permits Section of the Zoning Ordinance. The City may impose specific conditions on Architectural Permits in addition to the requirements of this Specific Plan.

VI. RESIDENTIAL GROWTH MANAGEMENT

Prior to issuance of building permits for new residential development projects with 5 or more dwelling units, Residential Allocations shall be granted by the Residential Development Evaluation Board (RDEB) in accordance with the City’s Growth Management Ordinance, Measure B, Chapter 38 of the Municipal Code. No allocations for residential development shall be granted until a Tentative Tract Map and Site Plan Permit is approved by the City. On June 16th, 1999, the City Council awarded 180 RDEB allocations; on April 5th, 2000, the City Council awarded 100 RDEB allocations and on April 4th, 2001, the City Council awarded 105 RDEB allocations for a total of 385 RDEB allocations to Marblehead Coastal (Agenda Report for Marblehead RDEB Reallocations and Re-certifications, San Clemente City Council Meeting, July 20th, 2004).

VII. COASTAL DEVELOPMENT PERMITS

The property owner has processed (pre-project) several Coastal Development Permits (CDP's) for other approvals on the property, such as for Emergency Bluff Stabilization and the Dudleya Reserve. Upon approval of the Marblehead Coastal General Plan Amendment 96-01, Specific Plan 95-02, Tentative Tract No. 8817 and Site Plans 97-16 and 97-17, the project will apply for a Coastal Development Permit directly from the Coastal Commission. Coastal Development Permit 5-03-013 as amended was issued on March 27, 2006 and special conditions apply to the property.

Applications for new development within the coastal zone shall be reviewed by the City Planner and processed in accordance with Zoning Ordinance requirements of Chapter 7, Coastal Development Permits Review Process.

Adopted August 5th, 1998
First Amendment Adopted August 21st, 2007
VIII. SIGNS

Sign applications shall be processed in accordance with the City’s Sign Ordinance and the Sign Program for the site.

IX. OTHER APPLICATIONS

All other permits not identified by this Specific Plan shall be processed in accordance with the Zoning Ordinance.

602 Amendments to the Specific Plan

Amendments to this Specific Plan shall be reviewed and processed in accordance with the Zoning Ordinance. If the City Planner determines that a General Plan Amendment is required, said application shall be reviewed and processed in addition to the Specific Plan Amendment in accordance with the Zoning Ordinance.
Chapter 7

DEFINITIONS

For the purposes of this Specific Plan, certain terms shall be defined as set forth in this Section. Terms not listed herein shall be defined per the City’s Zoning Ordinance, or if not listed in the Zoning Ordinance, shall be construed in accordance with accepted usage. Words used in the present tense shall include the future; words in the singular shall include the plural; the words "will" and "shall" are mandatory and the word "may" is permissive. The word "should" refers to policy guidance, which must be followed in the absence of compelling opposing considerations identified by the City.

Architectural Guidelines shall mean those aesthetic recommendations contained in Chapter 3 of this Specific Plan, intended to ensure the quality of development and the overall character as envisioned by the General Plan.

Chapter shall mean a chapter within this Specific Plan unless specifically identified as part of some other document.

City shall mean the City of San Clemente, a municipal corporation.

Council shall mean the City Council of the City of San Clemente.

Civic Uses shall mean publicly owned and managed facilities for meetings and other community, social, and multi-purpose uses and events.

Combustible Free Zone shall mean a twenty (20) foot setback from the property line of certain designated lots, which permanently restricts the use of combustible materials.

Contour Grading shall mean grading on major slopes intended to present a recontoured natural appearance to blend manufactured slopes with the natural topography on the site.

Conventional Subdivision shall mean a residential development divided into individual lots for the construction of single-family detached homes. Conventional subdivisions may have common open space.

Cultural refers to activities involved with the exhibition of objects and the performance of works having literary, artistic, historic, natural historic, musical, and/or scientific value for public appreciation.

Custom Lot Homesite shall mean any parcel of land shown on any recorded Subdivision Map, Parcel Map or Lot Adjustment, designated for the construction of a Custom Home.

Density shall mean the number of dwelling units per gross acre permitted in any Planning Area as specified in the Land Use Exhibit, Figure 2-1. Density within each Planning Area may vary as long as the overall density within the total Planning Area is not exceeded.

Drive-Thru Uses shall mean establishments with window service for automobiles. Typical uses include banks, dairies, or restaurants.
General Open Space (OS3) Publicly owned open space limited to open space preservation areas, infrastructure, athletic fields and access roads and parking.

Gross Acreage shall mean the number of acres within a Planning Area, including local street rights-of-way but excluding arterial street rights-of-way and major perimeter open space.

Growth Management Program shall mean the Growth Management Element of the General Plan, together with implementation policies and ordinances such as the Growth Management Ordinance (Measure B), Chapter 38 of the Municipal Code, and Chapter 39 of the Municipal Code pertaining to emergency response time.

Inclusionary Housing Program shall mean the Housing Element of the General Plan, together with policies and ordinances relating to the provision of affordable housing as defined in the General Plan.

Master Land Use Plan shall mean Exhibit 2-1, the adopted map depicting the approximate location of residential, commercial, public and private open space uses along with the statistical summary for these land uses.

Large Family Day-care Home shall mean a child care facility in a home which provides family day care for 7 to 12 children at any one time, including children under the age of 10 years who reside at the home, as defined in the Health and Safety Code Section 1597.40 et seq.

Offices shall mean establishments, which provide administrative, consulting, management, and professional services to businesses and individuals. Typical uses include real estate and insurance offices, banks and other financial institutions, accountants, attorneys, dentists, doctors, veterinarians, engineers, architects, planners, travel agencies, and medical clinics.

Patio Home shall mean a detached unit, usually with a small yard, interior courtyard, or atrium.

Planned Unit Development (PUD) shall mean a residential project consisting of residential uses with common recreation; open space, circulation and/or parking arranged in a comprehensive plan that treats the entire development as a single project. The purpose of this type of development is to take advantage of superior site planning techniques in order to produce an environment of desirable character, which will be in harmony with development of the surrounding community. PUD’s may include townhouses, patio homes, zero lot-line homes, detached single-family dwellings, private clubhouses, and recreation centers.

Planning Commission shall mean the Planning Commission of the City of San Clemente.

Public Land Use shall mean land and/or facilities owned, operated, and maintained by public agencies for the use and enjoyment of the general public.

Recreation Land Use shall mean land designated for active or passive recreation activities and for their support facilities.

Residential Land Use shall mean any parcel or area of land devoted to housing and ancillary uses.

Section shall mean a section within this Specific Plan unless specifically identified as part of some other document.
Setback shall mean a minimum horizontal distance between the exterior surface of a building, exclusive of architectural projections, fireplaces or eaves, and the abutting lot or property line; or, when abutting a street, the minimum horizontal distance between the exterior surface of a building, exclusive of architectural projections, fireplaces or eaves, and the ultimate street right-of-way line (whether public or private) or the sidewalk or curb if so specified.

Single-Family Detached Dwelling shall mean a single-family dwelling, which occupies its own lot and is not physically connected to any other dwelling.

Site Plan Permit shall mean an application for entitlement to use as defined in the Zoning Ordinance.

Small Family Day-care Home shall mean a child care facility in a home which provides family day care for 6 or fewer children at any one time, including children under the age of 10 years who reside at the home, as defined in the Health and Safety Code Section 1597.40 et seq.

Subdivision Code or Subdivision Ordinance shall mean the Subdivision Code of the City of San Clemente, as last revised.

Temporary Uses shall be any use, which is not prohibited by law but is more of a temporary nature than uses as defined within this Specific Plan.

Townhouse or Townhome shall mean a dwelling unit occupying its own lot but also physically attached to at least one other dwelling unit.

Useable Open Space within residential areas shall mean private or common property, excluding structures, driveways, parking areas, or areas with a dimension less than 10 lineal feet, areas less than 200 square feet, or slopes greater than 3 percent. Recreational facilities, such as swimming pools, tennis courts, and tot lots, may be counted toward this requirement. Private patios and balconies may also be counted toward this requirement, but only at a ratio of 50 percent, with each one square foot of patio or balcony equal to 0.5 square foot of usable open space. In order to count as credit toward this requirement, ground-level patios shall have a minimum area of 150 square feet with no dimension less than 10 feet. Useable open space provided on a balcony shall have a minimum area of 60 square feet, with no dimension less than 5 feet.

Urban Design Program shall mean the Urban Design Element of the General Plan together with implementation tools such as the Design Guidelines, Chapter 3 of this Specific Plan, and the Master Landscape Plan for Scenic Corridors.

Zero Lot Line Home shall mean a detached dwelling unit constructed adjacent to a side lot line, with no setback on one side of the lot, providing additional usable open space within the increased setback area on the opposing side.

Zoning Ordinance shall mean the San Clemente City Zoning Ordinance as last revised.
Appendices

Adopted August 5th, 1998
First Amendment Adopted August 21st, 2007
Appendix A

ARTICLE 8. SPECIFIC PLANS

65450. Preparation of specific plan
After the legislative body has adopted a general plan, the planning agency may, or if so
directed by the legislative body, shall, prepare specific plans for the systematic
implementation of the general plan for all or part of the area covered by the general plan.

65451. Content of specific plan
(a) A specific plan shall include a text and a diagram or diagrams which specify all of
the following in detail:
(1) The distribution, location, and extent of the uses of land, including open space,
within the area covered by the plan.
(2) The proposed distribution, location, and extent and intensity of major components
of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and
other essential facilities proposed to be located within the area covered by the plan and needed to
support the land uses described in the plan.
(3) Standards and criteria by which development will proceed, and standards for the
conservation, development, and utilization of natural resources, where applicable.
(4) A program of implementation measures including regulations, programs, public
works projects, and financing measures necessary to carry out paragraphs (1), (2), and (3).
(b) The specific plan shall include a statement of the relationship of the specific plan to
the general plan.

65452. Optional subjects
The specific plan may address any other subjects which in the judgment of the planning
agency are necessary or desirable for implementation of the general plan.

65453. Adoption/amendment procedure
(a) A specific plan shall be prepared, adopted, and amended in the same manner as a
general plan, except that a specific plan may be adopted by resolution or by ordinance and may
be amended as often as deemed necessary by the legislative body.
(b) A specific plan may be repealed in the same manner as it is required to be
amended.

65454. Consistency with general plan
No specific plan may be adopted or amended unless the proposed plan or amendment is
consistent with the general plan.

65455. Zoning, tentative map, parcel map, and public works project consistency with
specific plan
No local public works project may be approved, no tentative map or parcel map for which a
tentative map was not required may be approved, and no zoning ordinance may be
adopted or amended within an area covered by a specific plan unless it is consistent with
the adopted specific plan.

Adopted August 5th, 1998
First Amendment Adopted August 21st, 2007
65456. Fees and charges

(a) The legislative body, after adopting a specific plan, may impose a specific plan fee upon persons seeking governmental approvals which are required to be consistent with the specific plan. The fees shall be established so that, in the aggregate, they defray but as estimated do not exceed, the cost of preparation, adoption, and administration of the specific plan, including costs incurred pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. As nearly as can be estimated, the fee charged shall be a prorated amount in accordance with the applicant’s relative benefit derived from the specific plan. It is the intent of the Legislature in providing for such fees to charge persons who benefit from specific plans for the costs of developing those specific plans which result in savings to them by reducing the cost of documenting environmental consequences and advocating changed land uses which may be authorized pursuant to the specific plan.

(b) Notwithstanding Section 66016, a city or county may require a person who requests adoption, amendment, or repeal of a specific plan to deposit with the planning agency an amount equal to the estimated cost of preparing the plan, amendment, or repeal prior to its preparation by the planning agency.

(c) Copies of the documents adopting or amending the specific plan, including the diagrams and text, shall be made available to local agencies, and shall be made available to the general public as follows:

(1) Within one working day following the date of adoption, the clerk of the legislative body shall make the documents adopting or amending the plan, including the diagrams and text, available to the public for inspection.

(2) Within two working days after receipt of a request for a copy of the documents adopting or amending the plan, including the diagrams and text, accompanied by payment for the reasonable cost of copying, the clerk shall furnish the requested copy to the person making the request.

(d) A city or county may charge a fee for a copy of a specific plan or amendments to a specific plan in an amount that is reasonably related to the cost of providing that document.

[Amended, Chapter 1572, Statutes of 1990]

65457. CEQA exemption

(a) Any residential development project, including any subdivision, or any zoning change that is undertaken to implement and is consistent with a specific plan for which an environmental impact report has been certified after January 1, 1980, is exempt from the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code. However, if after adoption of the specific plan, an event as specified in Section 21166 of the Public Resources Code occurs, the exemption provided by this subdivision does not apply unless and until a supplemental environmental impact report for the specific plan is prepared and certified in accordance with the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code. After a supplemental environmental impact report is certified, the exemption specified in this subdivision applies to projects undertaken pursuant to the specific plan.

(b) An action or proceeding alleging that a public agency has approved a project pursuant to a specific plan without having previously certified a supplemental environmental impact report for the specific plan, where required by subdivision (a), shall be commenced within 30 days of the public agency’s decision to carry out or approve the project.

(c) This section does not supersede but provides an alternative procedure to Section 21080.7 of the Public Resources Code.
Appendix B

LIST OF INVASIVE AND UNDESIRABLE PLANT SPECIES

1. **Vinca major** - Periwinkle. This species is highly invasive, particularly in riparian areas. It thrives in the moist, shaded habitats found along stream areas and will dominate the habitat along the banks. Its habitat value to animals is not known.

2. **Lonicera japonica Halliana** - Hall’s honeysuckle. Honeysuckle is a vining shrub that can be somewhat invasive. The cultivated Hall’s honeysuckle is especially prone to escape from cultivation and invade natural habitats. Its habitat value to animals is probably similar to the native honeysuckle species (prohibited in peripheral zones only).

3. **Bromus mollis, B. rubens and Avena barbata** - Soft grass, red brome and wild oats. These grasses are non-native and highly invasive. The bromes are commonly referred to as foxtail grasses. Slender wild oats was deliberately introduced as forage for cattle and sheep by the Spanish. These grasses could be used for hydroseeding since they naturally re-vegetate and dominate disturbed areas. In addition, red brome and slender wild oats tend to dominate the areas in which they are found and prohibit the growth of other plant species. Their habitat value to animals is limited (prohibited in peripheral zones only).

4. **Carprobrotus edulis** - Hottentot fig. Also commonly known as iceplant. This is a very invasive plant, and will dominate the vegetation in a given area. Particularly successful on slopes. It provides only limited habitat value.

5. **Koelaria pyrimidata** - Junegrass, commonly used for erosion control, tends to be somewhat invasive. It provides only limited habitat value.

6. **Cortaderia hubata** - Pampas grass. Highly invasive grass that will take over wetlands. Its habitat value is extremely limited.

7. **Senecio mikanioides** - German ivy. Not a true ivy, but a perennial vine. Very weedy, invasive plant in coastal California. It provides no real habitat value.

8. **Tamarix spp.** - Tamarisk. Tamarisk are water lovers and become quickly established along drainage courses. They are very difficult to eradicate.

9. **Arundo donax** - Giant reed. Extremely invasive and difficult to control, particularly along drainage courses. Its habitat value is extremely limited.

10. **Ricinus communis** - Castor bean. Extremely invasive; common in degraded wetland areas. Its habitat value is unknown.

Note: For complete list see Marblehead Coastal Landscape Design Guidelines for Residential, Commercial, Roads, Open Space, and Parks, dated December 23rd, 2005.

Adopted August 5th, 1998
First Amendment Adopted August 21st, 2007
Appendix C

Conditions of Approval

Adopted August 5th, 1998
First Amendment Adopted August 21st, 2007
Resolution No. 07-56
A Resolution of the City Council of the City of San Clemente, CA
Approving an Amendment to Marblehead Coastal Specific Plan 95-02
RESOLUTION NO. 07-56

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF SAN CLEMENTE, CALIFORNIA, APPROVING AN AMENDMENT TO
MARBLEHEAD COASTAL SPECIFIC PLAN 95-02

WHEREAS, on August 5, 1998 the City Council approved Specific Plan 95-02, Tentative Tract Map 8817, Site Plan Permit (SPP) 97-16 and Coastal Development Permit 97-42 to allow the subdivision of 250.6 acres and the development of 434 single family residential dwelling units. Site Plan Permit 97-17, Conditional Use Permit 97-18 and Sign Exception Permit 97-19 to allow development of the commercial portion of the project were denied; and

WHEREAS, on July 7, 1999 the City Council approved Site Plan Permit 99-16, Conditional Use Permit 99-17 and Sign Exception Permit 99-18 to allow the development of 443,860 square-feet of specialty retail, 176,232 square-feet of entertainment and 80,048 square-foot of general retail; and

WHEREAS, on March 1, 2000 the City Council approved an Amendment to Tentative Tract Map 8817 and Site Plan Permit 97-16 to preserve additional existing wetland habitat and reduce the number of homes from 434 to 424 and allow other related modifications to the previously approved project; and

WHEREAS, on April 9, 2003, the California Coastal Commission conditionally approved the Marblehead Coastal project; and

WHEREAS, on September 16, 2003, the City Council approved an Amendment to TIM 8817 to preserve additional environmentally sensitive habitat areas and other open space, reduce the amount of developed acreage including a reduction in commercial square footage and the number of residential lots from 424 to 313; and

WHEREAS, on July 20, 2004, the City Council approved Amendment to Site Plan Permit 97-16 which was request to amend previously approved residential Site Plan Permit 97-16 to reduce the residential units from 424 to 313 and to allow the replacement of architectural product on each lot; and

WHEREAS, on May 1, 2007, the City Council approved Amendment to Site Plan Permit 97-16 which was request to amend previously approved residential Site Plan Permit 97-16 to allow custom homes on 69 lots; and

WHEREAS, on May 25, 2007, an application was filed by SunCal Marblehead, LLC to request the approval of an Amendment to Marblehead Coastal Specific Plan 95-02 to reconcile differences between the 1998 Specific Plan and subsequent approvals; and
WHEREAS, the Planning Division completed an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA), and determined that the proposed project has been adequately addressed in previously prepared Final Environmental Impact Report (FEIR) 95-01 for the Marblehead Coastal Project (State Clearing House Number 95091037). Certification of the document also included the adoption of Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program. In July 1998, February 2000, September 2003, April 2003 and July 2004 the City Council certified Addendums to FEIR 95-01. FEIR 95-01 and Addendum No. 5 to FEIR 95-01 (certified July 2004) considers all environmental impacts of the proposed project and is complete and adequate and fully complies with all requirements of CEQA and the State CEQA Guidelines; and

WHEREAS, the City's Development Management Team reviewed the proposed Amended Specific Plan for consistency with the General Plan policies and other applicable City ordinances and policies; and

WHEREAS, on July 25, 2007, the Planning Commission of the City of San Clemente held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the project applicant and other interested parties and adopted a resolution recommending that the City Council approve the Specific Plan Amendment; and

WHEREAS, on August 21, 2007, the City Council of the City of San Clemente held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the project applicant and other interested parties.

NOW THEREFORE, the City Council of the City of San Clemente hereby resolves as follows:

Section 1: Pursuant to state CEQA Guidelines, on August 5, 1998 the San Clemente City Council certified Marblehead Coastal Final Environmental Impact Report (FEIR) 95-01 (SCH No. 95091037). Certification of the document also included the adoption of Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program. Addenda to Final EIR 95-01 were approved by the City Council in July 1998, February 2000, August 2003, December 2003 and July 2004. FEIR 95-01 and Addendum No. 5 (July 2004) to FEIR 95-01 considers all environmental effects of the proposed project and is complete and adequate and fully complies with all requirements of CEQA and the State CEQA Guidelines.

Section 2: The City Council of the City of San Clemente finds and determines as follows with regard to Amendment to Marblehead Coastal Specific Plan 95-02:

A. The proposed Specific Plan Amendment is consistent with the goals, objectives, policies and programs of the General Plan, and is necessary and desirable to
implement the provisions of the General Plan in that the 1998 Specific Plan was consistent with the General Plan; the Marblehead Coastal Specific Plan Amendment meets or exceeds the intent of the goals, objectives, policies and programs of the General Plan by increasing the amount of open space, preserving additional canyons, reducing grading, reducing the amount of residential development, reducing the amount of commercial development, improving the quality of the overall project beyond the 1998 Specific Plan.

B. The uses proposed in the specific plan amendment are compatible with adjacent uses and properties in that the Marblehead Coastal Specific Plan Amendment reflects less intensive development and more open space than the 1998 Specific Plan.

C. The proposed Specific Plan Amendment will not adversely affect the public safety and welfare in that the Marblehead Coastal Specific Plan Amendment establishes more restricted development phasing, provides additional public trails, more clearly defines maintenance responsibilities, and more clearly defines water, sewer, reclaimed water, storm drainage and other infrastructure than the 1998 Specific Plan.

D. The Specific Plan Amendment will not create internal inconsistencies within the Specific Plan in that appropriate sections of text, tables and exhibits within the entire Marblehead Coastal Specific Plan Amendment have been revised and updated to reflect prior recent discretionary approvals including Coastal Development Permit 5-03-013-A3, Amendment to Tentative Tract Map 8817, Amendment to Site Plan Permit 97-16, Amendment to Site Plan Permit 99-16 and other permits issued by other agencies.

Section 3: The City Council hereby approves an Amendment to Marblehead Coastal Specific Plan 95-02 subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED this 21st day of August 2007.

[Signature]
Mayor of the City of San Clemente, California
Resolution No. 07-56

I, Myrna Erway, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 07-56 was adopted at a regular meeting of the City Council of the City of San Clemente held on the 21st day of August, 2007, by the following vote:

AYES: ANDERSON, DONCHAR, EGGLESTON, KNOBLOCK, MAYOR DAHL
NOES: NONE
ABSENT: NONE

Approved as to form:

City Attorney

CITY CLERK of the City of
San Clemente, California
EXHIBIT 1
CONDITIONS OF APPROVAL
AMENDMENT TO MARBLEHEAD COASTAL SPECIFIC PLAN 95-02

GENERAL CONDITIONS

1. This project is approved subject to the provisions of Final Environmental Impact Report (FEIR) 95-01 and subsequent Addendums and the mitigation measures adopted with FEIR, included by reference with these conditions of approval. (Plng.)

2. The owner or designee shall develop the approved project in conformance with all applicable submittals approved by the City subject to modifications by these Conditions of Approval. Any deviation from the applicable submittals approved by the City Council shall require that, prior to the issuance of any permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the City Planner or designee. If the City Planner or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain the approval of the City Council. (Plng.)

3. The owner or designee agrees to defend, indemnify and hold harmless the City of San Clemente and its elected and appointed boards, commissions, agents, officers and employees from any and all actions, suits, claims, liabilities, losses, damages, penalties, obligations, and expenses (including but not limited to attorneys' fees and costs) which may arise, directly or indirectly, from the acts, omissions; or operations of the owner or owner's agents, contractors, subcontractors, or employees concerning Amendment to Marblehead Coastal Specific Plan 95-02 when such action is brought within the time period provided under Government Code Section 66499.37. The City shall notify the owner or designee of the pendency of any such action and request that the owner or designee defend such action. If the owner or designee fails to do so, the City may defend the action and the owner or designee shall pay the cost thereof. The provisions herein shall not apply to the extent such damage; liability or claim is caused by the willful misconduct or sole active negligence of the City, or the City's officers, officials, agents, employees or representatives. (Plng.)

4. Within 90 days of approval of Amendment to Marblehead Coastal Specific Plan 95-02, the owner or designee shall submit the following to the City Planner: (Plng.)

A. Twenty five (25) bound copies of the approved Amendment to Marblehead Coastal Specific Plan 95-02.

B. One (1) unbound reproducible original of the approved Amendment to Marblehead Coastal Specific Plan.
C. One (1) CD with the approved Amendment to Marblehead Coastal Specific Plan provided as an Adobe Acrobat PDF.

D. One (1) CD with the approved Amendment to Marblehead Coastal Specific Plan provided in the original desktop publishing software format.

* All Conditions of Approval are Standard, unless indicated as follows:
  ■ Denotes modified Standard Condition of Approval
  ■■ Denotes project-specific Condition of Approval
Resolution No. 03-75
A Resolution of the City Council of the City of San Clemente, CA, Approving Tentative Tract Map 8817 Marblehead Coastal Subdivision
RESOLUTION NO 03-75

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING AMENDED TENTATIVE TRACT MAP 8817 MARBLEHEAD COASTAL SUBDIVISION

WHEREAS, on August 5, 1998 the City Council approved Tentative Tract Map 8817, Site Plan Permit 97-16 and Coastal Development Permit 97-42 to allow the subdivision of 250.6 acres and the development of a 434 single family residential dwelling units; and

WHEREAS, on March 1, 2000 the City Council approved an Amendment to Tentative Tract Map 8817 and Site Plan Permit 97-16 to preserve additional existing wetland habitat and reduce the number of homes from 434 to 424 and allow other related modifications to the previously approved project; and

WHEREAS, on May 21, 2003, an application was submitted by MT No. 1, LLC, 16592 Hale Avenue, Irvine, California 92606 to amend previously approved TTM 8817 to preserve additional environmentally sensitive habitat areas and other open space, reduce the amount of developed acreage including a reduction in commercial square footage and the number of residential lots from 424 to 313. The 248-acre project site is located west of the San Diego Freeway (Interstate 5) and northeast of the intersection of Avenida Pico and El Camino Real. The communities of Colony Cove and Shorecliffs are located adjacent to the site on the northwest; and

WHEREAS, Amended Tentative Tract Map 8817 proposes to subdivide approximately 248 acres to create 313 single-family residential lots, 28 commercial lots (allowing a total of 735,240 square feet of commercial uses), 21.53 acres of public park lots, 85.25 acres of open space canyon lots, 16.96 acres of perimeter and interior slope open space lots, 2.14 acres for a Dudleya Reserve and 12.75 acres for public roads; and

WHEREAS, the Planning Division completed an Addendum to Final Environmental Impact Report (EIR) 95-012 for the Marblehead Coastal Project (State Clearing House No. 95091037) in accordance with Section 15164 of the California Environmental Quality Act (CEQA). The Addendum addresses modifications to Tentative Tract Map No. 8817, which are in accordance with Coastal Development Permit Application 5-03-013 approved on April 9, 2003 by the California Coastal Commission updates previous studies and provides new analysis; and

WHEREAS, the City’s Development Management Team reviewed the proposed Tentative Map for consistency with the General Plan policies and other applicable City ordinances and policies; and

WHEREAS, on September 3, 2003, the Planning Commission of the City of San Clemente held a duly noticed public hearing on the subject application and considered evidence
presented by City staff, the project applicant and other interested parties and adopted a resolution recommending approval; and

WHEREAS, on September 16, 2003, the City Council of the City of San Clemente held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the project applicant and other interested parties.

NOW THEREFORE, the City Council of the City of San Clemente hereby resolves as follows:

Section 1: Pursuant to state CEQA Guidelines, on August 5, 1998 the San Clemente City Council certified Marblehead Coastal Final Environmental Impact Report (FEIR) 95-01 (SCH NO. 95091037). Certification of the document also included the adoption of Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program. Addendum to Final EIR 95-01 were approved by the City Council in July 1998 and February 2000. Addendum No. 3 (August 2003) to FEIR 95-01 considers all environmental affects of the proposed project and is complete and adequate and fully complies with all requirements of CEQA and the State CEQA Guidelines. Addendum No. 3 to Final EIR 95-01 thoroughly addresses proposed modifications to the Marblehead Coastal Project. Based on proposed modifications, no substantial changes are proposed in the project which will require major revisions of the Environmental Impact Report; there are no substantial changes with respect to the circumstances under which the project is being undertaken which will require major revisions to the Environmental Impact Report, and there is no new information, which was not known and could not have been known at the time the Environmental Impact Report was certified as complete, no new significant environmental impacts would occur, nor would the severity of the impacts previously identified increase. The environmental review pursuant to Section 15164 (Addendum EIR) of the State CEQA Guidelines appropriately addresses environmental considerations associated with project revisions and none of the conditions identified in Section 15162 (Subsequent EIRs) occur. All records pertaining to the FEIR and Addendum are contained in the Planning Division of the City of San Clemente.

Section 2: The City Council finds and determines as follows with regard to Amended Tentative Tract Map (AM TTM) 8817:

A. The proposed tract map, together with the provisions for design and improvements as supplemented by the conditions attached hereeto as Exhibit 1, are compatible with the objectives, policies, general land uses and programs specified in the General Plan of the City of San Clemente, and the Marblehead Specific Plan in that:

1. The map is consistent with the Land Use Element of the General Plan and the Marblehead Specific Plan in that the proposal of single-family residential and open space is consistent with the RL Residential, RC1 Regional Commercial, CRC Coastal/Recreation Commercial, and Open
Space land use designations of the General Plan and Marblehead Specific Plan.

2. The map is consistent with the Biological Resource Element of the General Plan in that Amended Tentative Tract Map 8817 reduces impacts to biological resources within the subject property. Comprehensive habitat preservation, restoration and creation would include 101.39 acres of habitat that would improve the biological function of the existing fragmented habitat. Additionally, the project would preserve all Dudleya including the created Dudleya Reserve.

3. The tract map, as conditioned, is consistent with all other aspects of the General Plan with respect to drainage and sanitary facilities and utilities, including all alignments and grades thereof; location and size of all required easements and rights-of-way; lot size and configuration; traffic access; grading; in-lieu fees for park or recreational purposes; and such other specific requirements in the plan and configuration of the entire subdivision as may be necessary or convenient to ensure conformity to, or implementation of, the General Plan.

B. The site is physically suitable for the proposed type of development in that the 313 single-family residential lots, 28 commercial lots (allowing a total of 735,240 square feet of commercial uses), 21.53 acres of public park, 85.25 acres of open space canyons, 16.96 acres of perimeter and interior slope open space, 2.14 acres for a Dudleya Reserve and 12.75 acres for public roads complies with the improvement and land use requirements of the City of San Clemente General Plan land use designations and Marblehead Coastal Specific Plan development standards.

C. The site is physically suitable for the proposed density of development in that the 313 single-family units and 735,240 square feet of commercial uses are less than the maximum permissible under the General Plan and Marblehead Specific Plan.

D. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because implementation of FEIR mitigation measures will reduce any potential significant wildlife impacts to a less than significant level.

E. The design of the subdivision and the types of improvements are not likely to cause serious public health problems in that an Initial Study was prepared for the project, as required by CEQA, which indicates that the project will not have a negative impact on public health.
F. The subdivision will not conflict with easements, acquired by the public at large, for access through, or use of, property within the proposed project in that easements have been established within the tentative map and conditions of approval.

G. The proposed map, together with the provisions for design and improvements, is consistent with the Subdivision Map Act and the City of San Clemente Subdivision Ordinance in that:

1. The proposal is for a tentative tract map to subdivide the property into five or more lots.

2. The project meets all applicable provisions of the Subdivision Map Act and City Subdivision Code including, but not limited to, those provisions relating to lot dimensions and configurations, street widths, and open space lots.

H. The proposed map is consistent with the Subdivision Map Act in that it has, to the extent feasible, taken into consideration future passive or natural heating or cooling opportunities.

I. The proposed map is consistent with the Subdivision Map Act in that it has taken into consideration the housing needs of the region balanced with the need for public services.

Section 3: The City Council hereby approves Amended Tentative Tract Map 8817 to subdivide the property into commercial, residential and open space lots, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED this ___16th____ day of ___September____, 2003.

Mayor of the City of San Clemente, California

ATTEST:

CITY CLERK of the City of San Clemente, California

STATE OF CALIFORNIA )
COUNTY OF ORANGE ) ss
CITY OF SAN CLEMENTE)
Resolution No. 03-75

I, Myrna Erway, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 03-75 was adopted at a regular meeting of the City Council of the City of San Clemente held on the 16th day of September, 2003, by the following vote:

AYES: ANDERSON, DAHL, EGGLESTON, RITSCHEL, MAYOR DOREY
NOES: NONE
ABSENT: NONE

CITY CLERK of the City of San Clemente, California

Approved as to form:

City Attorney

I, MYRNA ERWAY, CITY CLERK OF THE CITY OF SAN CLEMENTE, STATE OF CALIFORNIA, HEREBY CERTIFY UNDER PENALTY OF PERJURY THE FOREGOING INSTRUMENT TO BE A FULL, TRUE AND CORRECT COPY OF THE ORIGINAL NOW ON FILE IN MY OFFICE.

DATE: 10/16/03

CITY CLERK

Deputy
CONDITIONS OF APPROVAL
AMENDED TENTATIVE TRACT MAP 8817

GENERAL CONDITIONS

1. Prior to Final Map approval, the owner or designee shall submit for review, and shall obtain the approval of the City Council for, a Final Map prepared under the direction of a Registered Civil Engineer or a Licensed Land Surveyor. The Final Map(s) shall be subject to all pertinent requirements of the Subdivision Map Act and shall substantially conform to, the approved Tentative Map, City standards, and all other applicable approved plans, codes, ordinances, statutes and regulations. No building footprints, parking space configuration or other site improvements are approved as part of the Tentative Map. (Eng.)

2. This project is approved subject to the provisions of Final Environmental Impact Report (FEIR) 95-01 and subsequent Addendum in which potential adverse impacts on wildlife resources are identified. Within forty-eight (48) hours of final approval for this project, the owner or designee shall deliver to the Planning Division a check payable to the County Clerk in the amount of Eight-Hundred-Eighty-Eight dollars ($888.00), which includes the Eight-Hundred-Fifty dollars ($850.00) fee required by Fish & Game Code Section 711.4(d)(2) plus the thirty-eight dollars ($38.00) for the County administration fee. This will enable the City to file the Notice of Determination required under Public Resources Code Section 21152 and Title 14 of the California Code of Regulations Section 15075. (Plng.)

3. The owner or designee shall develop the approved project in conformance with all applicable submittals approved by the City subject to modifications by these Conditions of Approval. Any deviation from the applicable submittals recommended for approval by the Planning Commission shall require that, prior to the issuance of any permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the City Planner or designee. If the City Planner or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain the approval of the City Council. (Plng.)

4. This project shall be subject to the mitigation measures adopted with the Mitigation Monitoring Program prepared for the project, as included with and/or attached to, these Conditions of Approval.

5. The owner or designee shall not pave any street under which Cable-TV conduit is to be placed without actual notice to Cox Communications or their successor in interest, for the installation of cable conduit. Notice shall be sent to the following address: Cox Communications, General, Manager, 29947 Avenida de las Banderas, Rancho Santa Margarita, California 92688. (Plng.)
Communications, General, Manager, 29947 Avenida de las Banderas, Rancho Santa Margarita, California 92688. (Plng.)

6. The owner or designee agrees to defend, indemnify and hold harmless the City of San Clemente and its elected and appointed boards, commissions, agents, officers and employees from any and all actions, suits, claims, liabilities, losses, damages, penalties, obligations, and expenses (including but not limited to attorneys' fees and costs) which may arise, directly or indirectly, from the acts, omissions; or operations of the owner or owner's agents, contractors, subcontractors, or employees concerning Amended to Tentative Tract Map 8817 when such action is brought within the time period provided under Government Code Section 66499.37. The City shall notify the owner or designee of the pendency of any such action and request that the owner or designee defend such action. If the owner or designee fails to do so, the City may defend the action and the owner or designee shall pay the cost thereof. The provisions herein shall not apply to the extent such damage; liability or claim is caused by the willful misconduct or sole active negligence of the City, or the City's officers, officials, agents, employees or representatives. (Plng.)

7. Prior to submittal of improvement and/or grading plans, the owner or designee shall submit written consent to all of these imposed conditions to the Community Development Director or designee. The owner or designee understands that the resolution will be of no force or effect unless such written consent is submitted to the City. (Plng.)

8. Approval of Amended TTM 8817 is limited to the tentative tract map only. Amendments to previously approved Site Plan Permits, Conditional Use Permits and Sign Exception Permits for the residential and commercial developments shall be submitted for review and approval by the City prior to issuance of building permits. Final Maps shall not be approved for any lots within AM TTM 8817 without prior City approval of Site Plan Permits. It is understood that lot lines will be adjusted, as needed and permitted by the State Subdivision Map Act, to conform with City approved site plans. (Plng.)

9. Prior to Final Map, the owner or designee shall submit a deposit in an amount acceptable to the Community Development Director for the preparation of documentation necessary to reconcile the Marblehead Coastal Specific Plan with the Marblehead Coastal Development Permit No. 5-03-013. Documentation shall be in a form acceptable to the Community Development Director and City Attorney and said document shall be approved by the City prior to issuing the first residential certificate of occupancy or final inspection approval. (Plng.)

10. The Developer shall have the sole obligation to fund the Planning, Design, Engineering, Construction, Supervision, Inspection, and all other costs associated with the design and construction of the Park and Trail Improvements as defined within a Public Parks & Trails Implementation Plan. (BP&R.)
11. The Developer shall be responsible for the development and approval of a Public Parks & Trails Implementation Plan. This planning document shall address, as a minimum, the following items:

A. Public Parks & Trails Master Plan, including each public park parcel, open space parcel, streetscapes, and the overall trails network

B. Exhibit of all public park parcels, open space parcels, streetscapes, and the overall trails network

C. Construction Drawings for each park parcel and the overall trails network

D. Phasing Plan relative to all parks & trails project improvements

E. Financing Plan acknowledging the Developer's assurance of funding the design and construction of all parks & trails project improvements

F. Project Schedule, to include a tentative schedule for processing the Public Parks & Trails Master Plan, Construction Drawings, and projects construction

G. Offers of Dedication for Trail Easements, Ocean View Park, and Sports Park

12. The Public Parks & Trails Implementation Plan shall receive the approval of the Director of Beaches, Parks & Recreation. The Developer shall accomplish this approval on or before receiving approval of any Final Map. The Developer shall prepare the Trails network layout, design, and Construction Documents prior to approval of any Final Map. The Developer shall prepare the Ocean View Parks design and Construction Documents, prior to approval of any Final Map. The Developer shall prepare the Sports Park design and Construction Documents, prior to approval of any Final Map. No athletic field lighting is allowed at the Sports Park on Lots KK-NN unless a Conditional Use Permit is approved by the City. (BP&R) 

13. Prior to submittal of improvement plans, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for, a 1" = 200' Utilities Master Plan prepared by a Registered Civil Engineer, showing all public and private and existing and proposed sewer pump stations, force mains, laterals, mains and manholes; domestic and reclaimed water services, including gate and butterfly valves, pressure reducing stations, pressure zones, fire hydrants, and meters; storm drain mains, laterals, manholes, catch basins, inlets, detention & water quality basins, outlets, pipe sizes, pipe types and any other related appurtenances. The plan shall be consistent with approved site plan permit(s) for the commercial development. The plan shall provide for the following: (Eng.) 

A. All public utilities shall be constructed within dedicated public rights of way
and/or casements or as approved by the City Engineer. The storm drain system within the development shall be private as designated on the Tentative Map with a manhole in the public right of way at the property boundary for the transition from private to public responsibility;

B. All utility mains shall be placed in the streets and are to be directed to public rights of way, unless otherwise approved by the City Engineer. The utilities shall remain in the public rights of way of Avenida Vista Hermosa, El Camino Real, Avenida Pico and Public portions of Street AAAA, BBBB and EEEE; and

C. Utilities shall not be placed in slopes unless otherwise approved by the City Engineer.

FINAL MAP APPROVAL

14. Final Map conditions of approval that require dedications prior to final map may be satisfied by including those offers of dedication on the Final Map to the satisfaction of the City Engineer or designee.

15. Prior to approval of any Final Map that includes the Ocean View Parks (Lots D-F, I, J, M-P, ZZ, RR-TT), the owner of the residential project or designee shall make an irrevocable offer of dedication to the City of the Ocean View Parks (Lots D-F, I, J, M-P, ZZ, RR-TT). (Eng.) (BP&R)

16. Prior to approval of any Final Map that includes the Sports Park (Lot KK-NN), the owner of the residential project or designee shall make an irrevocable offer of dedication to the City of the Sports Park (Lot KK-NN). (Eng.) (BP&R)

17. Prior to Final Map approval, the owner or designee shall submit for review to the Community Development Department, and shall obtain the approval of the City Attorney or designee for, Covenants, Conditions and Restrictions (CC&R's), that are prepared by an authorized professional and generally provide for the following: (Eng.)

A. Creation of a Master Association and/or a Sub-association for the purpose of providing for control over, where applicable, the uniformity of boundary fencing and the perpetual maintenance responsibility of areas including, but not limited to, all common areas, open space, slopes, fuel modification zones, wetlands, private medians and greenbelts, arterial highway parkway landscaping, including trees, irrigation systems, landscaped areas, walls, driveways, parking areas, trash areas, structures, public trail, private streets, sidewalks, curbs and gutters, storm drain lines, catch basins, slope drains and appurtenances, sewer laterals, pump station and force main, street lights, street signage and striping improvements, and drainage facilities. Except for the public portion of Streets AAAA, BBBB, EEEE
School Access Road Lot LL, Avenida Pico and Avenida Vista Hermosa, all streets, sidewalks, curbs and gutters, storm drain lines, manholes, catch basins and appurtenances shall be designated as private unless otherwise approved by the City Engineer; slope drains and appurtenances; sewer laterals, sewer pump station and force main; landscaping; and street lights, street signage and striping improvements within the interior of the subdivision designated private shall remain private unless otherwise approved by the City Engineer and shall be maintained by the Master Association, or Sub-association, or such other provision for maintenance which may be subsequently approved by the City Engineer. In addition, the CC&R's or equivalent document shall indicate all other areas to be owned and maintained by the Master Association, or Sub-association and that maintenance of all private drainage facilities shall be in conformance with NPDES requirements. In addition the CC&R shall provide for reciprocal access agreements for the cluster homes and the commercial sites.

B. A statement that (except for the public portions of Streets AAAAA, BBBB, EEEE, School Access Road Lot LL, Avenida Pico, Avenida Vista Hermosa and all improvements therein) all streets, sidewalks, curbs and gutters; public trail; storm drain lines designated private, catch basins, slope drains and appurtenances that collect and transport runoff from private property; sewer laterals, sewer pump station and force main; landscaping; wetlands; and street lights, street signage and striping improvements within the interior of this subdivision are private and shall be maintained by the Master Association, or Sub-association(s) unless otherwise approved by the City Engineer.

C. Within 15 days of the establishment of the residential Homeowner's Association, the owner or designee is required to furnish the Board of the Association a copy of each approved Final Map for the tract, a copy of the approved site and fencing plan, copies of all approved landscaping plans, a complete set of construction plans for the various residential model types, and approved plans indicating the locations and characteristics of all major project components, utilities, and related data.

D. Following recordation of each Final Map, the Association of this subdivision shall submit to the Community Development Department, for distribution to the Fire and Beaches, Parks and Recreation Departments, and shall re-submit annually, a list of all current Officers of the Association.

E. The establishment of setback and height requirements for additions and accessory structures conforming to the development standards as set forth in the approved Specific Plan and City Zoning Ordinance.

F. A statement indicating that open space as provided in Lots H, YY, MMM-RRR, V, Y, Z, AA-HH, JJ, PP, QQ, UU, WW, G, Q, S, VV, L, C, LLL-KKK1, A, B, U,
W, X, OO, II, SSS-VVV, K, T, XX shall be retained by deed restriction as
designated open space in perpetuity and maintained by a Master Association or
the Sub-association, or other approved and appropriate agency, and that no
structures, development or encroachment shall be permitted within the designated
open space, except as shown on the Final Map, site plan, landscape, park or trail
plans and approved by the City.

G. A statement indicating that Lots KK-NN and D-F, I, J, M-P, RR-TT shall be
dedicated to the City for park, recreational, and pedestrian access and utility
purposes.

H. A statement indicating that proposed amendments to any of the CC&R's shall be
submitted for review to the Community Development Director or designee, and
shall be approved by the City Attorney and the City Council prior to the
amendments being valid.

I. A statement indicating that the City has the right, but not the obligation, to enforce
any of the provisions of the CC&R's.

J. Agreement by and between the owner or designee and/or the Association,
whichever is applicable, that storm drain facilities shall be inspected regularly as
follows:

1) Open channels and catch basins inspected annually before storm season
and removal of debris as necessary.

2) Underground drainage facilities 39" and larger in diameter shall be
inspected every two years.

3) All facilities shall have debris and sediment removed either manually or by
mechanical methods. Flushing shall be used in emergency situations only.

K. A maintenance program to be conducted on an as-needed basis to remove
sediment resulting from urban run-off in the event periodic testing indicates that
unacceptable concentrations of pollutants has occurred. Such maintenance
activities shall be limited to the designated settlement basins and the designated
area immediately adjacent to the outlet structure within the detention basin portion
of the wetlands. Sediment in the pre-settling basins and at the primary outlet
structure shall be removed when monitoring indicates the heavy metal
concentration level is just below "hazardous" as specified in Title 22, Chapter 11
of the California Code of Regulations, which will allow standard maintenance
materials deposited in the settlement basins to be disposed by conventional
methods. To reduce the impacts of re-suspended sediments during maintenance,
silt curtains or other forms of barriers shall be used to confine turbid water to the
immediate area of the maintenance activity. (MM 4.10-1.a, Lb)

L. A statement indicating that in accordance with the City Discharge Permit, from time to time granted by the San Diego Regional Water Quality Control Board, the Association shall each designate a contact person on behalf of each entity to address reclaimed water issues. The name and telephone number of the contact person shall be filed with the City.

M. Agreement by the owner or designee and the Association that on an annual basis by October 1st, fiscal year reports will be furnished to the City in compliance with the reporting requirements of codes and ordinances adopted by the City with respect to the NPDES program.

N. The CC&R’s shall contain fire prevention and defense provisions as applicable, including: a) a fire lane map; b) provisions which prohibit parking in fire lanes and a method of enforcement; and c) provisions for maintenance of fuel modification zones in accordance with the approved fuel modification plan and the inspection and correction of any deficiencies in the irrigation system three times a year. Also, a method for keeping fire protection access easements unobstructed shall be included. The approval of the Chief of Fire Protection Services shall be required for any modifications such as speed bumps, control gates, or parking changes.

(Fire-FP 12, FP 14, FP 17)

O. A statement that reciprocal parking, access and utility easements are for the preservation of access, parking and utility service availability over adjacent lots and private streets within the development in accordance with City Ordinances and the State Subdivision Map Act.

18. Prior to the City Engineer signing of the Final Map, the owner or designee shall pay all applicable development and Final Map fees, which may include, but are not limited to, City Attorney CC&R review, map and plan check, water connection, sewer assessment and connection, reclaimed water, water acreage assessment charge, hydrology review, parks, grading, traffic, soils review and construction inspection. (Eng.)

19. Prior to Final Map approval, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for, a traffic analysis prepared by a Traffic Engineer that analyzes the site’s internal and peripheral area, including consideration of the intersection operation, left and right turn lane requirements, signal requirements, and phasing of construction of improvements, residential units and commercial square footage. (Eng.)

20. Prior to Final Map approval, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for, a soils and geologic report
prepared by a Registered Geologist and Geotechnical Engineer which conforms to City standards and all other applicable codes, ordinances, statutes and regulations. (Eng.)

21. Prior to Final Map approval, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for, a hydrology and hydraulic study prepared by a Registered Civil Engineer to evaluate the grading design with respect to hydrologic and hydraulic requirements and to determine the sizes and locations of all on-site drainage facilities and modifications to off-site, downstream facilities and streets in accordance with all applicable City regulations and drainage standards. (MM 4.10-3) (Eng.)

22. Prior to the first residential Final Map approval, the owner or designee shall submit for review, and obtain the approval of the City Building Official or designee for, a preliminary sound attenuation plan. All residential lots and dwellings shall be sound attenuated against present and projected noise, which shall be the sum of all noise impacting the project, so as not to exceed an exterior standard of 65 dB CNEL (Community Noise Equivalent Level) in outdoor living areas and an indoor standard of 45 dB CNEL in all habitable rooms. Evidence prepared by a County-approved acoustical consultant that these standards will be satisfied in a manner consistent with applicable City Ordinances shall be submitted. The final sound attenuation plan shall be submitted for review and approval prior to issuance of precise grading and building permits. (Eng.) (Bldg.)

23. Prior to Final Map approval, the owner or designee shall submit for review, and shall obtain approval by the City Engineer or designee for, plans and programs for the regulation and control of pollutant run-off by using Best Management Practices (BMP's). The owner or designee shall demonstrate to the satisfaction of the City Engineer or designee that the project meets all requirements of the Orange County National Pollutant Discharge Elimination System (NPDES) Storm Drain Program, the Regional Water Quality Control Board requirements and Federal, State, County and City guidelines and regulations, in order to control pollutant run-off and shall provide evidence satisfactory to the City Engineer that an NPDES permit has been obtained. (Eng.)

24. Prior to Final Map approval, the owner or designee shall provide the City with evidence of a certified General Construction Activity Storm Water Permit and a Notice of Intent filed with the California State Water Resources Control Board, or a certified copy of an application for an individual permit from the California State Water Resources Control Board. (Eng.)

25. Prior to Final Map approval, the owner or designee shall provide to the City the Storm Water Pollution Prevention Plan as submitted to and approved by the California State Water Resources Control Board for the General Construction Activity Storm Water Permit. (Eng.)
26. Prior to Final Map approval, the owner or designee shall submit for review, and obtain the approval of the City Engineer and City Planner for, a Construction Phasing Plan and Mitigation Program. The construction plan and mitigation program shall include, but not be limited to, a schedule and the method of performing the grading and construction of all utilities and infrastructure improvements, the improvements shall include but not limited to storm drains, sewers, water systems, streets and access improvements. The program shall also include discussions and depictions of the following: stock-piling, staging and mobilization areas which are to be located/ performed as far as possible from occupied dwellings; construction traffic routing and directional signing; types of construction equipment; gate and fencing plan, including green mesh screening; dust and erosion control measures; notification program; and final building development phases generally consistent with the phasing specified in the MCSP.

A. Measures for the suppression of fugitive dust PM-10 shall be implemented including, but not be limited to, the following: (MM 4.4-2.a)

1) Measures shall be utilized to prevent dirt from being tracked, washed, blown or otherwise conveyed onto pave roadways. SCAQMD Rule 403, as amended, shall be adhered to, ensuring:

   a) The clean up of the construction-related dirt on approach routes to the site. The construction access points from any public roadway shall be swept on a routine basis on a frequency specified by the City Engineer as well as whenever dirt is visible more than 50 feet from the access point independent of the routine clean-up schedule. (MM 4.4-2.a, 2.c)

   b) Application of water and/or chemical dust retardants or other stabilization for dust control measures as needed that solidify loose soils for construction vehicle access and graded surfaces used for off-road parking, materials lay-down or awaiting future construction, as directed by the City Engineer or designee. Frequently accessed, unpaved areas shall be paved as early as possible to minimize dirt track-out to public rights of-way. (MM 4.4-2.a, 21)

   c) Implementation of a high wind dust control program. (MM 4.4-2.b)

2) The wheels and lower portions of transport trucks shall be sprayed with water before leaving the construction area. (MM 4.4-2.a)
3) Adequate watering techniques shall be employed to partially mitigate the impact of construction-generated dust particulates. (MM 4.4-2.a)

4) Trucks hauling dirt on public roads to and from the site shall be covered or shall maintain a six inch differential between the maximum height of any hauled material and the top of the haul trailer. Haul truck drivers shall be required to water the load prior to leaving the site to prevent soil loss during transport. (MM 4.4-2.d)

B. Contractor personnel responsible for supervision, and the appropriate actions to be taken, for the following measures shall be identified:

1) Cessation of activities during a Stage-2 smog episode. (MM 4.4-2.e)

2) Truck routes, lane closures, detours and schedules for receipt of materials shall be coordinated with the City Engineer or designee. Flagpersons and appropriate traffic control devices shall be used as needed to minimize construction activity interference with off-site traffic. (MM 4.4-2.e, 21)

3) Where feasible, on-road vehicles and off-road equipment shall be turned off and subsequently re-started if the anticipated duration of idling is expected to exceed five (5) minutes. (MM 4.4-2.e)

C. Equipment shall be maintained in proper tune to prevent visible soot from reducing light transmission through the exhaust stack exit by more than 20 percent for more than three (3) minutes per hour and use low-sulfur fuel as required by SCAQMD regulation. (MM 4.4-2.g)

27. Prior to Final Map approval, the owner shall enter into an agreement for reimbursement of the cost for up-sizing from 12" the master plan reclaimed water main, including fittings, pressure reducing station; connection to existing main, and stub outs to the Vista Hermosa Interchange and to the easterly boundary of Lot MM consistent with Section 3.6.2.1 of the Development Agreement. ■■ (Eng.)

28. Prior to Final Map approval, the owner or designee shall participate with others in an update to the Reclaimed Water Master Plan to accommodate the change in use of the property. (Eng.)

29. Prior to Final Map approval, the owner or designee shall indicate on the Final Map that, except for designated public streets Avenida Vista Hermosa, School Access Road Lot LL and a portion of Streets, AAAAA, BBBB, EEEE, all streets, sidewalks, curbs and gutters; public trails; storm drain lines, catch basins, manholes and appurtenances designated private; slope drains and appurtenances; sewer laterals, sewer pump station and force main; landscaping; street lights, street signage and striping improvements within the
I. Sidewalks (unobstructed 4' minimum in width) shall be installed off of the curb at the property line on the residential unit side of Streets AAAA (Portion), BBBB (Portion), JJJJ (Portion), GGGG, NNNN, FFFF, SSSS, QQQQ (Portion), EEEE.

J. Sidewalks (adjacent to the curb, 5' in width measured from the curb face and unobstructed 4' minimum in width) shall be installed on the residential unit side of private Streets TTTT and the north side of public street El Camino Real in the area identified as “Per Typical Section” on Amended TTM 8817 and on the north side of El Camino Real south of the area identified as “Per Typical Section” except where prohibited by the Coastal Commission.

K. Multi-Use Trail (adjacent to curb and 8' in width measured from the curb face) shall be installed on the west side of public street Avenida Pico. In addition a bike lane shall be striped along the north side of public street El Camino Real.

L. Sidewalk (5' wide, unobstructed 4' minimum in width and no closer than 5' of the curb face) shall be installed on the north side of public street Avenida Vista Hermosa.

M. Multi-Use Trail (8' minimum in width and no closer than 5' of the curb face) shall be installed on the south side of public street Avenida Vista Hermosa.

N. The bike trails, to be constructed along noted streets, shall be striped and be constructed of an improved surface to the satisfaction of the City Engineer and Beaches, Parks, and Recreation Director.

O. Curb return radii shall be 35' at all arterial/arterial/local intersections and 25' at all local/local intersections.

P. Sight distance along all streets shall be designed in compliance with Orange County EMA Standard 1117.

Q. Improvement plans shall indicate existing and proposed improvements, including, but not limited to, all public and private street signage; street name signs and locations; striping; the total proposed public and private street centerline and lane length and maintenance responsibility assignment (i.e., City, State, specific lot, maintenance/Homeowners Association); and location and total number of public and private street lights proposed by size, wattage, type, height, service point and maintenance responsibility assignment. Streetlights shall be installed at the middle ordinate of cul-de-sac's, at each intersection, at the head of "T" intersections, at the middle ordinate and on the outside of knuckles and not to exceed 200' separation and in compliance with City Standards.
R. Improvement plans shall include enriched pavement at all major entrances to private development areas, including a plan for signs designating private streets at the corner of these entrances. Enhanced paving is to be predominantly level constructed within the private street right of way and maintained by the Association. The City Engineer shall approve the design.

S. Improvement plans for all streets shall be submitted to and approved by the Fire Chief. The plans shall show fire lanes, locations of red curbing and signage. A drawing of the proposed signage with the height, stroke, and color of lettering, and contrasting background color shall be provided. Plans shall also include sectional views, and indicate the width measured flow line to flow line. All proposed fire apparatus turnarounds shall be clearly marked. (Fire-FP8, FP9)

T. Bus bays shall be provided at locations approved by the OCTA and the City Engineer and constructed in accordance with OCTA and City standards. Any necessary right of way for the bus bays shall be dedicated on the Final Map as required by the City Engineer.

U. Where a front-facing two-car garage is setback 30' or more, the driveway apron width shall not exceed 16'. When closer than 30', the width shall not exceed 20'.

V. Where a front-facing three-car garage is setback 30' or more, the driveway apron width shall not exceed 24'. When closer than 30', the width shall not exceed 28'.

W. The emergency access from Street CCC through Lots U, W, X shall be a turf block apron with a 4" mountable curb in accordance with American Public Works Standard 121-1 Type B2-150 and a post and double rail gate or other design approved by the Orange County Fire Authority.

45. Prior to Final Map approval, the owner or designee shall submit (along with a plan check deposit of 1% of the construction cost of the traffic signal improvements) for review, and obtain the approval of the City Engineer or designee for, traffic signal improvement plans for the following intersections if warranted, including pre-emption and interconnection:
   ■ (Eng.)

A. Avenida Vista Hermosa & Commercial Entry to Lots 356 & 368 and with Streets AAAA & IIII

B. Avenida Vista Hermosa & Avenida Pico

C. Avenida Pico & Entry to Water Reclamation Plant

46. Prior to Final Map approval the owner or designee shall submit. (Along with a plan check
deposit of 1% of the construction cost of the storm drain improvements), in accordance with the City-approved Utilities Master Plan, for review, and shall obtain the approval of the City Engineer or designee for, public and private drainage improvement plans prepared by a Registered Civil Engineer which generally provide for the following, or as otherwise approved by the City Engineer: ■ (Eng.)

A. All storm drain junction structures and catch basins shall be provided with access manholes.

B. Storm drain manholes shall be located at 1) 300' intervals in the public right of way, 2) the property boundary for transition from public to private maintenance with the manholes being public, 3) lateral connections, 4) Locations deemed necessary by the City Engineer and 5) changes in vertical and horizontal grade that do not allow a collar. Storm drain manholes shall not be located in easements.

C. Drainage facilities not located within streets or parking lots shall be located in a minimum 15' wide separate lettered lot or a minimum 15' wide easement within a lettered lot with the capability of mechanized access for inspection and maintenance provided, unless otherwise approved by the City-Engineer.

D. Pipe size and curve radii shall be reviewed for acceptability in accordance with the City-approved Utilities Master Plan prior to final design. Additional manholes shall be installed in all curves to insure two-way line of sight from each manhole.

E. Pipes shall not be located in slopes. If determined by the City Engineer to be necessary to be in a slope, the pipes shall be pressure pipes. In addition the City Engineer may require that pipes in the slopes with limited access or within environmentally sensitive areas be oversized or utilize casings or other design means to provide for alternatives for future maintenance or replacement of the pipes.

F. An Engineered secondary over-flow shall be provided for storm drain systems designed - with sump conditions to preclude flooding of private property.

G. Catch basins shall be located so that there is no driveway within 25' upstream of the catch basin. All catch basins in sump locations shall provide for a secondary or overland flow designed to the satisfaction of the City Engineer.

H. No more than 15% difference of design storm flow shall be allowed to flow by a catch basin and carried over to the next basin.

I. Cross gutters are not to be used as a drainage facility if a storm drain is within 300'.
J. Gutter widths at catch basins on streets with bike lanes and/or travel lanes adjacent to the curb are to be 2'.

K. Catch basins shall be provided per County standards with a manhole over the side of the lateral pipe. Spacing for the basins shall be design per County Standards and as approved by the City Engineer or his designee. Settlemcnt inlets for the development shall comply with NPDES Best Management Practices and shall be used for the collection of the runoff.

L. Catch basins along Avenida Vista Hermosa shall be constructed at all corners of the residential street intersections and at the intersection with Avenida Pico.

M. A Runoff Management Plan (ROMP) shall be submitted for review and approval by the City. The plan shall address all runoff issues including but not limited to water quality, detention capabilities, onsite and offsite hydrology etc.

N. The development's storm drain system shall provide for the existing drainage system on the school property to the satisfaction of the Capistrano Unified School District and or the City Engineer.

O. All water quality basins including the inlet and outlet pipes shall be maintained by the HOA. Maintenance agreements shall be executed to clearly define the responsibilities and duties of the HOA.

P. The design for the detentions basins including all valves, meters and auxiliary equipment shall be designed to the satisfaction of the City Engineer and shall be reviewed and approved by the City. In addition all hydraulics shall be designed to the satisfaction of the City Engineer or his designee.

Q. Existing storm runoff facilities on Avenida Pico south of Calle de los Molinos, on El Camino Real and at the Segunda Deshecha (M02) shall be evaluated for adequacy to handle surface runoff due to the development. Improvements shall be provided as necessary to the satisfaction of the City Engineer, or designee.

R. The setback of improvements along the westerly boundary south of Lot W shall be sufficient to ensure access to City storm drain facilities proposed within Lot U along the boundary on the adjacent property.

S. Runoff from upslopes not a part of, and behind, residential lots to be collected along the toe outside the residential lot and directed to the street or storm drain system shall be designed during rough grading plan preparation.

T. Terrace drains shall be placed on the contoured and undulating slope in such a manner to avoid vertical-connecting "V" drains or downdrains where feasible, and
Hermosa Interchange to Avenida Pico. All the necessary connections and valves shall be provided.

48. Prior to Final Map approval the owner or designee shall submit (along with a plan check deposit of 1% of the construction cost of the wastewater improvements), in accordance with the City-approved Utilities Master Plan, for review, and shall obtain the approval of the City Engineer or designee for, wastewater improvement plans specific to the project, prepared by a Registered Civil Engineer, which reflect consistency with the City's Sewer Master Plan and standards. Said plan shall generally provide for the following unless otherwise approved by the City Engineer:

A. Sewer mains shall be vitrified clay pipe (VCP), extra strength VCP as required by the City Engineer, or PVC SDR 26 with locked O-ring per ASTM D3034.

B. Sewer manholes shall be located in the public right of way at the property boundary for transition from public maintenance to private maintenance. The manholes shall be public.

C. Sewer mains shall be laid in a straight line between manholes, unless approved by the City Engineer.

D. Pipes shall not be located in slopes. If determined by the City Engineer that it is necessary to be in a slope, the pipes shall be pressure pipes. In addition, casings, over sizing of pipelines or other design means may be required as determined by the City Engineer.

E. Lateral sewer services may be PVC SDR 35 for residential lots and shall have clean out at the property lines for each home including cluster homes. All sewer laterals shall be private lines and shall be maintained by the property owners. Cluster units shall have separate sewer laterals unless a design is otherwise reviewed and approved by the City Engineer.

F. Access roads and hammerhead turnarounds for vector trucks shall be provided wherever access is needed to maintain sewer systems. The access roads and turnarounds shall have a capacity of handling loads up to 60,000 lbs.

G. Distance between sewer manholes shall be a maximum of 350 feet and all manholes shall be lined with PVC liners, or application of protective coating as approved by the City Engineer or designee.

H. All manhole covers shall be Alhambra Foundry A1490 heavy duty traffic covers or equal in compliance with ASTM A-48, Class 35 iron dipped twice in asphalt or coal tar oil, or as approved by the City Engineer or his designee.
J. Sewer mains shall be provided in Streets TTTT to serve the residential lots, unless otherwise approved by the City Engineer or designee.

49. Prior to Final Map approval, the owner of the residential project or designee shall submit an application to apportion existing sewer capacity from Sewer Assessment District 85-1 to this Final Map. Since there is excess capacity, the owner or designee shall pay off the excess capacity prior to City Engineer signing the Final Map in accordance with the Final Engineering Report for Sewer Assessment District 85-1 or as approved by the City Engineer. (Eng.)

50. Prior to the City Engineer signing of the Final Map, the owner or designee shall provide separate improvement bonds or irrevocable letters of credit in a form and amount acceptable to the City Engineer, for 100% of each estimated improvement cost, as prepared by a Registered Civil Engineer and approved by the City Engineer or designee, for each, but not limited to, the public and private improvements for the following: mass and/or rough grading; precise grading; street improvements; bridges; monuments; sidewalks; traffic signal, striping and signage; trail and walk improvements; park improvements; street lights; sewer systems; domestic and reclaimed water systems; storm drain systems; erosion control; landscaping and irrigation in rights of way, private slopes and open space; and off-site street repair. In addition, the owner or designee shall provide separate labor and material bonds or irrevocable letters of credit, as determined by the City Engineer, for 100% of the above estimated improvement costs. (BP&R) (Eng.)

51. Prior to residential Final Map approval, the owner or designee shall submit for review and approval by the Director of Community Development, an Affordable Housing Implementation Plan which provides for the following: (Plng.)

A. The number of affordable units required shall be 15% of the total number of residential dwelling units to be constructed in Tract 8817.

B. The Plan shall indicate that the required number of affordable dwelling units shall be provided by the payment of in-lieu fees as prescribed by the Housing Element of the General Plan, and that the plan will be approved prior to issuance of buildings permits for any residential units.

52. Prior to residential Final Map approval, the owner or designee shall submit for review, and shall obtain the approval of the City Attorney or designee for, a buyer's notification disclosure form, to be given to all potential buyers, which indicates the existence, operations, characteristics, and potential exposure to nuisance/objectionable odors/risk of upset and/or hazards of the following: (Plng.)

A. United States Marine Corps, Camp Pendleton
B. San Onofre Nuclear Generating Station

C. The Marblehead Coastal Wetland and Bluff Trails

D. Orange County Flood Control Channel

E. City of San Clemente Wastewater Treatment Plant

A place for the buyers' written acknowledgment of these factors shall be provided on the disclosure forms. Copies of forms signed by the buyer shall be provided to the City Planner or designee within 30 days of the closure of escrow.

RECORDATION OF FINAL MAP

53. Prior to recordation of the Final Map, the owner or designee shall submit for review, and shall obtain the approval of the County Surveyor for, a digitized map pursuant to Orange County Ordinance No. 3809 of January 28, 1991. The owner or designee shall pay for all costs of said digital submittals, including supplying digital copies to the City of the final, County Surveyor-approved digital map in DXF format. (Eng.)

54. Prior to recordation of the Final Map, the owner or designee shall place a note on the map stating that all applicable structures shall be protected by an automatic fire sprinkler system, in a manner meeting the approval of the Fire Chief or designee. (Fire-FP3)

55. Prior to recordation of the Final Map, the owner or designee shall submit for review, and shall obtain the approval of the Fire Chief or designee for, all fire protection access easements and shall dedicate them to the City of San Clemente. (Fire-FP4)

56. Prior to recordation of any residential Final Map, the owner or designee shall submit for review and obtain the approval of the Fire Chief or designee for, a conceptual fuel modification plan and program. Contact the Orange County Fire authority Development Review Section at (714) 744-0477 for requirements and clearance of this condition. (Fire-FP7)

ISSUANCE OF PERMITS

57. Prior to issuance of any permit, the owner or designee shall demonstrate to the satisfaction of the City Engineer or designee that all existing survey monuments are located in the field in compliance with AB 1414 for restoration by the Registered Civil Engineer or Land Surveyor in accordance with Section 8771 of the Business and Professions Code. (Eng.)

58. Prior to issuance of any grading permits, the City Engineer shall determine that
development-of the site shall conform to general recommendations presented in the
geotechnical studies, including specifications for site preparation, landslide treatment,
treatment of cut and fill, slope stability, soils engineering, and surface and subsurface
drainage, and recommendations for further study. (Eng.)

59. Prior to issuance of any grading permits, the limits of grading shown on the Tentative
Map must be verified by the Geotechnical Engineer. The owner or designee shall not be
allowed to go beyond the limits as shown on the Tentative Map, unless approved by the
Director of Community Development.
(Eng.) (Plng.)

60. Prior to issuance of any grading permits unless previously provided, the owner or
designee shall demonstrate to the satisfaction of the City Planner or designee that a 4(d)
Section 7 or Section 10 permit has been obtained prior to commencing activities that
would impact the gnatcatcher.
(MM 4.12-1 a) (Plng.)

61. Prior to issuance of any grading permit unless previously provided, the owner or
designee shall demonstrate to the satisfaction of the City Planner or designee that a Section 404
Permit and California Department of Fish and Game (CDFG) Streambed Alteration
Agreement have been obtained prior to impacting wetlands and other waters of the U.S.
Impacts to applicable wetland habitats shall be mitigated in a manner acceptable to the
United States Army Corps of Engineers and CDFG.
(MM 4.12-1 a) (Plng.)

62. Prior to issuance of grading permits unless previously provided, the owner or designee
shall demonstrate to the satisfaction of the City Planner or designee that, at a minimum,
plans and appropriate permits for the following on-site mitigation measures for impacts to
biological resources have been approved:

A. Preservation of 6.90 acres of existing wetlands, and restoration and enhancement
   of an additional 4.6 acres of wetland habitat, located within the Marblehead
   Canyons (Lots C, G, L and S), as well the three detention basins (Lots K, T, XX).

B. Preservation of 10.4 acres of existing sage scrub habitat, and restoration and
   enhancement of 70 acres of sage scrub habitat, within the Canyons and open space
   adjacent to the preserved and restored wetlands.

C. Completion of the implementation of the measures required under the dudleya
   reserve translocation and management plan approved by the California Coastal

D. Provision for buffers around wetlands in canyon bottoms.

E. Funding under the Habitat Management Plan adequate to provide for long-term
monitoring and management of preserved and restored biological resources. □□
(MM 4.12-l.b) (Plng.)

63. Prior to issuance of rough grading permits, the owner or designee shall demonstrate to the
satisfaction of the City Planner or designee that a monitoring biologist, acceptable to the
United States Fish and Wildlife Service/California Department of Fish and Game, has
been retained and shall be on site during any clearing of coastal sage scrub. □□
(Plng.)

64. Prior to issuance of any grading permits, the owner or designee shall submit for review
and obtain the approval of the City Building Official or designee for an acoustical
analysis report prepared by a County-approved acoustical consultant. The report shall
describe, in detail, the exterior noise environment and preliminary requirements.
Acoustical design features to achieve interior noise standards may be included in the
report in which case it may also satisfy the following conditions:

A. Prior to issuance of any grading permits, the owner or designee shall provide
evidence acceptable to the City Engineer, unless otherwise approved by the City
Engineer or designee, that:

1) All construction vehicles or equipment, fixed or mobile, operated within
1,000 feet of a dwelling shall be equipped with operating and maintained
mufflers.

2) No internal combustion equipment such as pumps or generators shall be
allowed to operate within 500 feet of any occupied residence from 7:30
a.m. to 5:30 p.m. unless the equipment is surrounded by a noise protection
barrier acceptable to the City Engineer or designee.

3) All operations shall comply with Orange County Codified Ordinance
Division 6 (Noise Control).

4) Stockpiling and/or vehicle-storage areas shall be located as far as
practicable and out of
view from dwellings to the extent feasible.

5) The City of San Clemente Noise Ordinance, limiting the hours of
construction and construction equipment maintenance to between 7:30
a.m. and 5:30 p.m. and to the days of Monday through Friday, excluding
City holidays, shall be enforced.

B. Prior to issuance of residential precise grading permits and building permits, the
owner or designee shall submit for review, and obtain the approval of the City
Building Official or designee for, a final sound attenuation plan. All residential
lots and dwellings shall be sound attenuated against present and projected noise, which shall be the sum of all noise impacting the project, so as not to exceed an exterior standard of 65 dB CNEL (Community Noise Equivalent Level) in outdoor living areas and an indoor standard of 45 dB CNEL in all habitable rooms. Evidence prepared by a County-approved acoustical consultant shall indicate that standard six-foot perimeter walls will be adequate to satisfy these standards in a manner consistent with applicable City Ordinances or shall indicate other appropriate mitigation measures.

(MM 4.3-1.a, 4.3-1.c, 4.3-1.d) (Eng.)

65. Prior to issuance of rough grading permits, the owner or designee shall submit (along with a plan check deposit of 1% of the construction cost of the grading and erosion control) for review, and obtain the approval of the City Engineer or designee for, a rough grading plan prepared by a Registered Civil Engineer that provides improvements of appropriate grading in compliance with the City Grading Ordinance, exposed retaining walls not to exceed applicable Zoning Ordinance maximum retaining wall height standards (except as shown on the approved tentative map), drainage and trails. Said plan shall include provisions for: 1) stockpiling of topsoil for placement on finished slopes, if determined to be required by the approved soils agronomy report to establish adequate vegetative cover; 2) erosion and siltation control; 3) dust control; 4) provisions for planting of vegetation on all exposed slopes within ninety (90) days of certification and/or prior to October 15 as required by the Grading Ordinance; 5) temporary sedimentation basins and sandbagging if necessary; and 6) a water conservation program; 7) runoff from adjacent properties and upslopes not to be collected along the toe outside the residential lot and directed to the street or storm drain system shall be designed during precise grading plan preparation; 8) terrace drains shall be placed on the contoured and undulating slope in such a manner to avoid vertical connecting "V" drains or downdrains where feasible, and placed to minimize their visual impact, as well as any necessary downdrains. (Eng.)

66. Prior to issuance of rough grading permits, a fossil preservation plan shall be approved by the City Planner. A qualified paleontologist (able to meet the criteria of, and be experienced in scientific methods acceptable to, the section of Vertebrate Paleontology of the Natural History Museum of Los Angeles County) identified in the plan shall attend any pre-grade meetings and monitor grading operations. If fossils are discovered, the paleontologist shall be empowered to divert or redirect grading in the vicinity of the remains in order to evaluate and salvage exposed prehistoric fossils. The plan shall provide for the following: ■ (MM 4.7-1, 2.e) (Eng.)

A. Sufficient time allowed for adequate evaluation and recovery operations to be completed.
(MM 4.7-1, 2.a, 2.b)

B. Marine and non-marine terrace sediments and sand lenses in the Capistrano
Formation to be screened routinely for micro-vertebrate and invertebrate remains. (MM 4.7-2.c)

C. All fossils collected to be catalogued, analyzed, and prepared to the point of identification, with the remains to be placed in the Orange County designated repository and/or a permanent systematics institution with a research and/or educational interest in fossils. (MM 4.7-2.d)

67. This project shall be subject to all provisions of the Archaeology Plan prepared by Gavin H Archer, RRPA, dated November 2002, as amended by the Archaeological Monitoring Treatment Plan dated February 20, 2003 and as further modified by the Coastal Commission by Condition No. 26 of Coastal Development Permit No. 5-03-013. (n) (Ping.)

68. Prior to issuance of rough grading permits, the owner or designee shall submit for review and obtain the approval of the Fire Chief or designee for, a precise fuel modification plan and program. The plan shall indicate the proposed means of achieving an acceptable level of risk to structures by vegetation, and shall include the method for removal of combustible vegetation and the planting of drought tolerant fire resistant plants. (Fire-FP7)

69. Prior to issuance of precise grading permits, the owner or designee shall submit (along with a plan check deposit of 1% of the construction cost of the grading) for review, and obtain the approval of the City Engineer or designee, a precise grading plan as required by the City Grading Manual and Ordinance. All on-site drainage shall be conveyed onto public or private streets through on-site yard drains, routed under sidewalks and through the curb, unless otherwise authorized by the City Engineer or designee. These facilities shall be constructed in accordance with City standards and privately maintained. (Eng.)

70. Prior to issuance of precise grading and building permits, the owner or designee shall ascertain from the City Engineer or designee that the City's water supply is adequate to accommodate the anticipated water demands of this project. If an adequate water supply is not available, grading and building permits shall not be issued. Approval of this project does not guarantee that potable water will be available for the project at the time of permit application. (Fire-FP 14) (Eng.)

71. Prior to issuance of precise grading and building permits, the owner or designee shall submit, in accordance with the City-approved Utilities Master Plan, for review, and shall obtain the approval of the Community Development Director and Director, Beaches, Parks and Recreation or designee, a detailed landscape and irrigation plan (compatible with the City's Maxicom master controller for areas to be maintained by the City) and incorporating drought tolerant plants, for on- and off-site landscaping including, but not limited to, Avenida Pico median and all other medians, parkways, public trails, fuel
modification areas, common areas and slopes, and other landscaped areas, prepared by a
Registered Landscape Architect, and in compliance with all pertinent requirements
including, but not limited to, the City's Landscape Guidelines, applicable Specific Plans,
and guidelines contained in the City's Master Landscape Plan of Scenic Corridors except
as modified by the Coastal Development Permit 5-03-013. A site-specific soils report,
prepared by an authorized professional, regarding the tests and analyses of the agricultural
suitability of the soil and recommendations shall be submitted for review for selected
areas. (BP&R)_____

The following standards shall apply for landscaping design, unless otherwise approved by
the City or as modified by Coastal Development Permit 5-03-013: ■(Plng.)_____
(Eng.)_____(BPR)_____

A. Minimum parkway tree size shall be 15-gallon for canopy trees and ten-foot (10')
brown trunk height (BTH) for palms.

B. Trees shall be planted and staked at thirty-foot intervals in commercial or
residential parkway areas, or a minimum of one per residential lot frontage.
Residential corner lots shall include a minimum of two trees along the side yard
parkway.

C. Landscaping shall not conflict with vehicular sight distance and shall comply with
Orange County EMA Standard 1117.

D. All parkway trees shall maintain the following distances from improvements:

1) 10' 0" from water, sewer and storm drain lines;

2) 5' 0" from hardscape (curbs, sidewalks, street lights, utility boxes, fire
hydrants, post indicator valve, fire detector checks, etc.), unless an
approved species is planted in a tree well with 24" deep, continuous circle,
root control barriers that are securely fastened at the joint with ribs inward;

3) 5' 0" from drive approaches; and

4) 25' 0" from curb return at street intersections.

E. All landscape irrigation systems shall be designed using the City's reclaimed
water standards. In the event reclaimed water is not available at the time the
system is put into operation, the system may be connected to the potable water
system. When reclaimed water is available, the system shall be converted to
reclaimed service. The owner or designee shall install reclaimed water service
lines to the meter locations for future connection when reclaimed water is
available.
F. All median streetscapes in public streets shall be designed to the standards of the Master Landscape Plan for Scenic Corridors. All medians shall be provided with separate water meters, electric meters and irrigation controllers.

72. Prior to the issuance of grading and building permits, the owner or designee shall be responsible for updating the City's mylar Precise Zoning Map by integrating the recorded map into the appropriate sheet(s) of the Zoning Map in a manner satisfactory to the City Planner or designee. (Ping.)

73. Prior to issuance of any residential building permits, the owner or designee shall submit for review and obtain the approval of the City Engineer or designee for, additional construction level engineering studies which evaluate the limits of the existing 100-year flood plain based upon the existing and proposed stream geometry through the wetland area. (MM 4.10-2) (Eng.)

74. If required, then prior to issuance of applicable building permits, the owner or designee shall submit for review and obtain the approval of the Fire Chief or designee for, plans for an automatic fire sprinkler system. (Fire-FP 15)

75. Prior to issuance of any residential building permits, development allocations must be awarded to the project in accordance with Chapter 15.44 of the Code of the City of San Clemente (Measure B), pertaining to the Residential Development Evaluation Board (RDEB). (Ping.)

76. Prior to issuance of residential building permits, the owner or designee shall submit for review and obtain the approval of the Building Official or designee for plans which indicate that appropriate electrical system design to enable future use to charge electric-powered vehicles is provided in each residential unit. (MM 4.4-1) (Bldg.)

77. Prior to issuance of building permits, the owner or designee shall pay all applicable development fees in effect at the time, which may include, but are not limited to, RCFPP, public safety plan check, Affordable Housing In-Lieu Fee on a per-unit basis, transportation corridor and school fees, etc. (MM 4.2-1) (Eng.) (Bldg.)

78. Prior to issuance of any building permits, the owner or designee shall include within the first four pages of the working drawings a list of all Conditions of Approval imposed by the final approval for the project applicable to the particular phase of development. (Bldg.)

79. Building permits shall not be issued unless the project complies with all applicable codes, ordinances, and statutes including, but not limited to, the Zoning Ordinance, the Uniform
Fire Code, Security Ordinance, Transportation Demand Ordinance, Water Quality Ordinance, Title 24 of the California Administrative Code, and the Uniform Codes as adopted by the City. (Plng.) (Bldg.)

80. Prior to issuance of any grading permits, the owner or designee shall demonstrate to the satisfaction of the City Planner or designee that all areas of coastal sage scrub habitat to be avoided by construction equipment and personnel are marked with temporary fencing or other appropriate markers clearly visible to construction personnel. No construction access, parking or storage of equipment or materials, or other such construction activities, shall be permitted within such marked areas. In addition, during construction activities, coastal sage scrub areas identified for protection and located within the likely dust drift radius of construction areas shall be periodically sprayed with water to reduce accumulated dust on the leaves, as recommended by the monitoring biologist. (MM 4.12-2.c, 2.d) (Plng.)

81. Prior to issuance of building permits, the owner or designee shall submit for review, and obtain the approval of the Fire Chief or designee for, the on-site private and public fire hydrant system. The owner or designee shall also make provisions to the satisfaction of the Fire Chief or designee for the maintenance and repair of the private system. (Fire-FP2)

82. Prior to issuance of building permits, the owner or designee shall submit a copy of the City Engineer approved soils and geologic report, prepared by a Registered Geologist and Geotechnical Engineer, which conforms to City standards and all other applicable codes, ordinances, statutes and regulations. The soils report shall accompany the building plans, engineering calculations, and reports. (Bldg.)

83. Prior to issuance of building permits for combustible construction, the owner or designee shall submit to the Fire Chief and obtain approval of a letter and plan, stating that water for fire fighting purposes and an all weather fire access road shall be in place before any combustible materials are placed on site. (Fire-FP 13)

84. Prior to issuance of building permits, the owner or designee shall demonstrate to the satisfaction of the Fire Chief or designee that this project complies with Chapter 15.48 of the San Clemente Municipal Code, pertaining to emergency response standards. (Plng.) (Fire)

85. Prior to issuance of residential building permits, construction details for any emergency access gate shall be submitted to and approved by the Fire Chief or designee. Contact the Orange County Fire Authority at 714 744 6623 for a copy of the “Guidelines for Fire Department Emergency Access”. (Fire-FP 10)
86. Prior to issuance of residential building permits, the owner or designee shall demonstrate to the satisfaction of the Fire Chief or designee that the portion of the approved fuel modification plan, determined by the Fire Chief to be necessary before the introduction of any combustible materials into the project area, has been completed. (Fire-FP7)

87. Prior to issuance of building permits, or as otherwise authorized by the City Engineer or designee, the owner or designee shall demonstrate to the satisfaction of the City Engineer or designee that all underground public utilities necessary to allow construction to proceed for the Development Phase in compliance with the City-approved Construction Phasing and Mitigation Program have been completed in accordance with the approved plans, and that the as-built progress plans for said improvements, prepared by a Registered Civil Engineer, have been submitted and approved by the City Engineer or designee. (Eng.)

88. This project shall be subject to all provisions of the City Regional Circulation Funding and Phasing Program (RCFPP). Residential building permits shall not be issued until the City Engineer or designee has certified that the arterial street network intended to serve the portions of the project for which permits are requested can accommodate the anticipated trip generation of the project within the acceptable level of service, standards. Approval of this project does not guarantee that traffic capacity will be available for the project at the time of permit application. In the event the RCFPP has not constructed the addition of a second westbound left-turn lane on Avenida Pico at the intersection of N. El Camino Real and Avenida Pico, and the City Engineer or designee determines that the level of service standards may be degraded through issuance of permits, then the owner or designee shall, prior to issuance of said permits, construct such improvements subject to RCFPP reimbursement. (MM4.2-2) (Eng.)

89. As stipulated by the Development Agreement for the project, prior to issuance of the first building permit for any residential or commercial unit, the owner or designee shall pay $5,880,000.00 for the RCFPP fees that are attributed to the Avenida Vista Hermosa Interchange. The remaining portion of the RCFPP fees of $1,350,000.00 ($7,230,000.00-$5,880,000.00), calculated based on the amended RCFPP document dated November 1997, shall be paid by the owner or his designee as building permits are issued for the residential units and commercial sites. The $1,350,000.00 shall be proportioned at a ratio of 45% for residential and 55% for commercial, this amount shall be spread over the approved, total number of residential units and the total square footage for the commercial sites. In case the number of residential units or the square footage for the commercial sites are reduced, then the fee per residential unit and/or per square footage need to be adjusted to ensure that the total amount of $1,350,000.00 is paid at the time the last building permit will be issued. (Eng.)

90. Prior to issuance of residential building permits, the owner or designee shall submit for review, and shall obtain the approval of the City Building Official or designee for, plans indicating the location and type of unit address lighting to be installed, and the location of
doors and window locks, indicating compliance with Security Ordinance #770. (Bldg)

91. Prior to issuance of any building permits, the owner or designee shall submit for review, and shall obtain the approval of the City Planner or designee for, landscape plans which indicate that all ground-mounted utility structures and equipment, including, but not limited to, standpipes, shall be located out of view, from a public street and/or adequately screened through the use of walls and/or landscaping, to the extent feasible. (Plng.)

92. Prior to or concurrent with the opening of Avenida Vista Hermosa to the public, the Marblehead Canyon Trails and the trails along the bluff consistent with the first phase Habitat Trail and Park Phasing Plan dated April 2, 2003, shall be open to the public. All trails and parks shall be open to the public prior to the 200th certificate of occupancy. (BP&R)

93. Prior to issuance of the 151st residential building permit, the construction of the full width of Avenida Vista Hermosa and median/parkway landscaping from the I-5 Interchange limits to Avenida Pico, including the bridge and signal improvements at all commercial center entrances, shall be substantially completed to the satisfaction of the City Engineer and Director of Beaches Parks and Recreation or designees. (BP&R) (Eng.)

94. Prior to issuance of the 151st residential building permit, the construction of the Avenida Pico ultimate widening and median/parkway landscaping from the existing improvements south of Calle de los Molinos to El Camino Real adjacent to the property, and the median modifications and signal at-the Water Reclamation Plant entrance if determined necessary by the City Engineer, shall be completed to the satisfaction of the City Engineer and Director of Beaches Parks and Recreation. (BP&R) (Eng.)

95. Prior to issuance of the 251st residential building permit, the construction of El Camino Real (Pacific Coast Highway) widening improvements adjacent to the property, including installation of the Bluff Trail and bluff landscaping, shall be completed to the satisfaction of the City Engineer and Director of Beaches Parks and Recreation. (Eng.) (BP&R)

ISSUANCE OF CERTIFICATES OF OCCUPANCY

96. Prior to issuance of the first certificate of occupancy, the qualified project paleontologist shall submit to the City Planner or designee a copy of the final report that was submitted along with any recovered fossils to the designated repository which summarizes findings, including an itemized inventory and contextual stratigraphic data. (MM 4.7-2. f) (Plng.)

97. Prior to issuance of certificates of occupancy and acceptance of improvements by the City
Engineer, or designee, for each Development Phase in compliance with the City-approved Construction Phasing and Mitigation Program unless an exception is granted by the City Engineer, the owner or designee shall submit as built plans prepared by a Registered Civil Engineer, depicting all underground public utilities completed to the satisfaction of the City Engineer for that Development Phase. (Eng.)

98. Prior to issuance of certificates of occupancy, the owner or designee shall demonstrate to the satisfaction of the City Engineer or designee that the following have been installed per the approved improvement plans unless an exception is granted by the City Engineer: public and/or private street name signs, "private street" signs, regulatory signs constructed of high intensity sheeting and .080 aluminum, traffic pavement markings controlling arterial, collector and residential street intersections, centerline and lane line striping, and curb painting. (Fire-FP9) (Eng.) (Maint.)

99. Prior to issuance of certificates of occupancy unless an exception is granted by the City Engineer, the owner or designee shall demonstrate to the satisfaction of the City Engineer and City Maintenance Manager or their designees that all street improvements damaged during construction have been repaired or replaced. (Eng.) (Maint.)

100. Prior to issuance of certificates of occupancy for each Development Phase in compliance with the City-approved Construction Phasing and Mitigation Program, the owner or designee shall submit a letter, signed by a Registered Landscape Architect, to the Community Development Director or designee stating that all materials for all landscaped areas and irrigation have been installed in accordance with the approved plans, and shall demonstrate to the satisfaction of the Community Development Director or designee, in consultation with the Beaches, Parks and Recreation Director or designee, that all landscaped areas and irrigation, including but not limited to median/parkway/slope landscaping and irrigation, have been installed in accordance with the approved landscape plans. This requirement excludes Area Habitat Management Plans. (Eng.) (BP&R)

101. Prior to issuance of the first Certificate of Occupancy for a residential unit abutting the fuel modification zone, the owner or designee shall demonstrate to the satisfaction of the Fire Chief or designee that the remainder of the fuel modification has been installed, completed and established to a degree meeting the approval of the Fire Chief or designee. (Fire-FP7)

102. Prior to issuance of certificates of occupancy for each Development Phase, in compliance with the City-approved Construction Phasing and Mitigation Program, the owner or designee shall demonstrate to the satisfaction of the Fire Chief that blue reflective pavement markers have been installed on the street(s), indicating the location of all fire hydrants per the Orange County Fire Authority standard. On private streets, these markers shall be maintained in good condition by the Association or OEA entity. (Fire-FP 19)
RELEASE OF FINANCIAL SECURITY

103. Prior to release of financial security, the owner or designee shall demonstrate to the satisfaction of the City Engineer and the City Planner that the appropriate Association has been formed and that the CC&R’s have been reviewed by the City Attorney, approved by same and recorded.

(Plng.) (Eng.)

104. Prior to release of financial security, the owner or designee shall demonstrate to the satisfaction of the City Engineer or designee that all survey monuments damaged or destroyed are restored. "Corner Records" shall be prepared for submission to the City Engineering Division and for filing with the County Surveyor's Office in compliance with AB 1414. All restorations of survey monuments shall be certified by the Registered Civil Engineer or Land Surveyor in accordance with Section 8771 of the Business and Professions Code. (Eng.)

105. Prior to release of financial security, the owner or designee shall submit as-built plans prepared by a Registered Civil Engineer, depicting all street, traffic signal, sewer, water, and storm drain improvements and street signage and signage placements, traffic markings and painted curbing and all required improvements shall be completed to the satisfaction of the City Engineer, or designee: (Eng.)

106. Prior to release of financial security, the owner or designee shall have completed the stenciling of all catch basins and storm drain inlets with labels 3" high in black letters, on either the top of the curb or the curb face adjacent to the inlet "NO DUMPING - DRAINS TO OCEAN". These markings shall be maintained in good condition by the Property Owners Association or OEA entity. (Eng.)

107. Prior to release of financial security, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for, a videotape, filmed in the presence of a City Staff representative, of all sewer and drainage improvements. The videotape shall become the property of the City. (Eng.)

108. Prior to release of financial security, the owner or designee shall submit the following as-built items, certified by a Registered Civil Engineer, to the Engineering Division. All construction improvement as-built plans submitted to the City for review and approval shall be in digitized format (DXF file format) as requested by the City: (Eng.)

A. Duplicate mylars of the recorded Final Map.

B. A 1" = 200' scale topographic mylar showing finished contours of the development at a contour interval of five (5) ft.
C. Mylar sheets at a scale of 1" = 40', or at an appropriate scale to be determined by the City Engineer or designee, showing domestic and reclaimed water, sewer, drainage facilities, final grading and street improvements;

D. A 1" = 200' mylar showing all "as-built" domestic and reclaimed water, sewer, storm drains and drainage facilities for utility maintenance purposes.

109. Prior to release of financial security, all domestic and reclaimed water and sewer systems, including, but not limited to pump stations, generators, and pressure release valves shall be fully tested, in the presence of a City Staff representative, to verify system performance in accordance with design specifications. (Eng.)

110. Prior to release of financial security, the owner or designee shall execute an agreement, to the satisfaction of the Community Development Director and the Beaches, Parks and Recreation Director or their designees, with the City which designates responsibility for maintenance and irrigation of parkway trees, shrubs and ground cover within the public and private right of way. The City or designee shall be responsible for maintaining all medians within the public right-of-way. The owner or designee, or the Association or designee, shall be responsible for watering all parkway trees, shrubs and ground cover within the public and private right of way, and shall trim and otherwise maintain parkway shrubs and ground cover and shall prune and keep disease-free all parkway trees within the public and private right of way. (BP&R)

111. Prior to release of financial security, the owner or designee shall submit mylar sheets at a scale of 1" = 20' or 1" = 40', or at an appropriate scale to be determined by the Beaches, Parks and Recreation Director or designee, showing as-builts of grading, trails, all park improvements, and median/parkway/slope landscaping and irrigation (including irrigation central control system) intended for City Maintenance. (BP&R)

112. Prior to release of financial security, if any of the areas within the development were in a flood zone, the owner or designee shall file and obtain approval of a letter of map revision from FEMA to revise the FEMA flood zone map. (Eng)

* All Conditions of Approval are Standard, unless indicated as follows:

■ Denotes modified Standard Condition of Approval

★★ Denotes project-specific Condition of Approval
Resolution No. 07-02
A Resolution of the City Council of the City of San Clemente, CA
Approving Amendment to Site Plan Permit (AM SPP) 97-16,
Marblehead Coastal Residential Development and Custom Lots
RESOLUTION NO. 07-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF SAN CLEMENTE, CALIFORNIA, APPROVING AMENDMENT TO SITE PLAN PERMIT (AM SPP) 97-16, MARBLEHEAD COASTAL RESIDENTIAL DEVELOPMENT AND CUSTOM LOTS

WHEREAS, on August 5, 1998 the City Council approved Tentative Tract Map 8817, Site Plan Permit (SPP) 97-16 and Coastal Development Permit 97-42 to allow the subdivision of 250.6 acres and the development of a 434 single family residential dwelling units. Site Plan Permit 97-17, Conditional Use Permit 97-18 and Sign Exception Permit 97-19 to allow development of the commercial portion of the project were denied; and

WHEREAS, on July 7, 1999 the City Council approved Site Plan Permit 99-16, Conditional Use Permit 99-17 and Sign Exception Permit 99-18 to allow the development of 443,860 square-feet of specialty retail, 176,232 square-feet of entertainment and 80,048 square-feet of general retail; and

WHEREAS, on March 1, 2000 the City Council approved an Amendment to Tentative Tract Map 8817 and Site Plan Permit 97-16 to preserve additional existing wetland habitat and reduce the number of homes from 434 to 424 and allow other related modifications to the previously approved project; and

WHEREAS, on April 9, 2003, the California Coastal Commission conditionally approved the Marblehead Coastal project; and

WHEREAS, on September 16, 2003, the City Council approved an Amendment to TTM 8817 to preserve additional environmentally sensitive habitat areas and other open space, reduce the amount of developed acreage including a reduction in commercial square footage and the number of residential lots from 424 to 313; and

WHEREAS, on July 20, 2004, the City Council approved Amendment to Site Plan Permit 97-16 which was request to amend previously approved residential Site Plan Permit 97-16 to reduce the residential units from 424 to 313 and to allow the replacement of architectural product on each lot; and

WHEREAS, on August 3, 2006, an application was filed by SunCal Marblehead, LLC to request the approval of an Amendment to Site Plan Permit 97-16 to allow the development of custom architecture on 69 lots within the previously approved Marblehead Coastal residential project, the legal descriptions being Lots 78 to 146 of Tract 8817; and
WHEREAS, the Planning Division completed an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA), and determined that the proposed project has been adequately addressed in previously prepared Final Environmental Impact Report (EIR) 95-01 for the Marblehead Coastal Project (State Clearing House Number 95091037). Certification of the document also included the adoption of Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program. In July 1998, February 2000, September 2003, April 2003 and July 2004 the City Council certified Addendums to FEIR 95-01. Addendum No. 5 to FEIR 95-01 (certified July 2004) considers all environmental impacts of the proposed project and is complete and adequate and fully complies with all requirements of CEQA and the State CEQA Guidelines; and

WHEREAS, the City’s Development Management Team reviewed the proposed Amended Site Plan Permit for consistency with the General Plan policies and other applicable City ordinances and policies; and

WHEREAS, on December 6, 2006, the Planning Commission of the City of San Clemente held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the project applicant and other interested parties and adopted a resolution recommending approval of the proposed project; and

WHEREAS, on January 9, 2007, the City Council of the City of San Clemente held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the project applicant and other interested parties and continued the meeting to February 6, 2007; and

WHEREAS, on February 6, 2007, the City Council of the City of San Clemente held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the project applicant and other interested parties and continued the hearing to March 20, 2007; and

WHEREAS, on March 20, 2007, the City Council of the City of San Clemente held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the project applicant and other interested parties and continued the hearing to April 3, 2007; and

WHEREAS, on April 3, 2007, the City Council of the City of San Clemente held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the project applicant and other interested parties and continued the hearing to May 1, 2007; and

WHEREAS, on May 1, 2007, the City Council of the City of San Clemente held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the project applicant and other interested parties.
NOW THEREFORE, the City Council of the City of San Clemente hereby resolves as follows:

Section 1: Pursuant to state CEQA Guidelines, on August 5, 1998 the San Clemente City Council certified Marblehead Coastal Final Environmental Impact Report (FEIR) 95-01 (SCH NO. 95091037). Certification of the document also included the adoption of Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program. Addenda to Final EIR 95-01 were approved by the City Council in July 1998, February 2000, August 2003, December 2003 and July 2004. Addendum No. 5 (July 2004) to FEIR 95-01 considers all environmental effects of the proposed project and is complete and adequate and fully complies with all requirements of CEQA and the State CEQA Guidelines.

Section 2: The City Council of the City of San Clemente finds and determines as follows with regard to Amendment to Site Plan Permit 97-16:

A. The proposed residential development is permitted within the subject zone pursuant to the approval of a Site Plan Permit and complies with all of the applicable provisions of the Marblehead Coastal Specific Plan, the goals and objectives of the San Clemente General Plan, and the purpose and intent of the zone in which the development is being proposed in that:

1. The proposed project provides for a range of single-family residential homes within the limits of the Marblehead Coastal Specific Plan area.

2. The proposed project is consistent with the Land Use Element and the Conservation and Open Space Element of the City of San Clemente General Plan in that it has been determined that no encroachment into designated open space will occur as a result of the development of this project.

3. The proposed project is consistent with all other aspects of the City of San Clemente General Plan and the Marblehead Coastal Specific Plan with respect to street alignments, grades and widths; drainage and sanitary facilities, including alignments and grades thereof; location and size of all required easements and rights-of-way; lot size and configuration; traffic circulation and access; and other specific requirements.

B. The site is suitable for the type and intensity of development that is proposed in that Planning Areas 2A and 2B are designated for single-family residential development.

C. The proposed residential development, as conditioned, will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity, in that the project is consistent with the General
Plan and Marblehead Coastal Specific Plans, fits well within the surrounding community and will not be developed until all utility services are available. All sewer and water services which will be provided to the site are the responsibility of the owner and his/her designee, and as conditioned, no building permits shall be issued prior to proof that such water and sewer systems can accommodate the project.

D. The proposed residential development, as conditioned, will not be unsightly or create disharmony with its locale and surroundings, and the general appearance of the proposal is in keeping with the character of the neighborhood, in that:

1. The two story homes incorporate substantial single story elements.

2. The project has been conditioned to require single story homes on Lots 140, 145, 146, 147, 167 and 168 to transition between single-story homes in Colony Cove and custom homes in Marblehead Coastal.

3. The project will provide a unified streetscape through use of street trees in required front yards and in open space lots adjacent the residential streets.

4. The project will provide a minimum 20-foot wide landscaped buffer between the proposed development and the existing Colony Cove residential neighborhood.

5. The custom lot architecture is conditioned to limit the height and massing in a manner to ensure compatibility with the community character.

E. The proposed residential development will minimize or eliminate adverse physical or visual effects which might otherwise result from unplanned or inappropriate development, design or location, and will not be detrimental to the orderly and harmonious development of the City of San Clemente, in that:

1. Adequate yard separations between residences are provided.

2. The conventional residential development provides adequate driveway lengths to allow vehicles to park on driveways in addition to the provision of adequate onsite parking spaces. The courtyard residential development exceeds minimum parking standards.

3. Pedestrian sidewalks are proposed through the residential development and an extensive public trail system is also provided.

F. The architectural treatment of the residential project complies with the San Clemente General Plan, the Marblehead Coastal Specific Plan, and the San
Clemente Zoning Ordinance in areas including, but not limited to, height, setback and color, etc., in that:

1. The proposed single-family residences comply with the maximum 35-foot height limit of the Marblehead Coastal Specific Plan Residential zone.

2. The residential development complies with the minimum front, side and rear yard setbacks of the Marblehead Coastal Specific Plan.

3. The custom lot architecture is restricted to a maximum height of 29 feet to the primary structure and 31 feet for a single tower element. Homes on lots 140, 145, 146, 147, 167 and 168 are restricted to 16 feet maximum height.

4. Tower elements have been prohibited from Lots 140, 145, 146, 147, 167 and 168.

5. The custom lot homes on Lots 140, 145 and 146 have been restricted to a maximum of 3,000 square feet of residential floor area. The building footprint shall be within the previously approved building envelope.

G. The architectural treatment of the residential project complies with the architectural guidelines in the City of San Clemente Design Guidelines and the Marblehead Coastal Specific Plan, in that:

1. Single story elements are incorporated into the two story homes to reduce apparent height.

2. Entry elements, including porches are proposed for the homes.

3. Varied architectural styles are balanced with unifying elements of building materials and project landscaping.

Section 3: The City Council hereby approves Amendment to Site Plan Permit 97-16 Marblehead Coastal Residential, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit I.

PASSED AND ADOPTED this 1st day of May, 2007.

Mayor of the City of
San Clemente, California
Resolution No. 07-02

ATTEST:

Myrna Erway
CITY CLERK of the City of
San Clemente, California

STATE OF CALIFORNIA )
COUNTY OF ORANGE ) ss
CITY OF SAN CLEMENTE)

I, Myrna Erway, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 07-02 was adopted at a regular meeting of the City Council of the City of San Clemente held on the 1st day of May, 2007, by the following vote:

AYES: ANDERSON, DONCHAK, EGGLESTON, KNOBLOCK, MAYOR DAHL
NOES: NONE
ABSENT: NONE

Approved as to form:

/s/ Jeff Oderman
City Attorney
EXHIBIT 1
CONDITIONS OF APPROVAL
AMENDMENT TO SITE PLAN PERMIT 97-16 MARBLEHEAD COASTAL RESIDENTIAL DEVELOPMENT AND CUSTOM LOTS

GENERAL CONDITIONS

1. AM SPP 97-16 is subject to these conditions and all applicable Conditions of Approval for Amended Tentative Tract Map 8817 as approved by the City Council on September 16, 2003 with Resolution 03-075. (Plng.) (Eng.)

2. This project is approved subject to the provisions of Final Environmental Impact Report (FEIR) 95-01 and subsequent Addendums and the mitigation measures adopted with FEIR, included with reference with these conditions of approval. Upon approval of AM SPP 97-16, no construction activities shall be permitted on Saturdays within 500 feet of the existing homes along the northern boundary (Colony Cove). (Plng.)

3. The owner or designee shall develop the approved project in conformance with all applicable submittals approved by the City subject to modifications by these Conditions of Approval. Any deviation from the applicable submittals recommended for approval by the Planning Commission shall require that, prior to the issuance of any permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the City Planner or designee. If the City Planner or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain the approval of the City Council. (Plng.)

4. The owner or designee shall not pave any street under which Cable TV conduit is to be placed without actual notice to Cox Communications or their successor in interest, for the installation of cable conduit. Notice shall be sent to the following address: Cox Communications, General Manager, 29947 Avenida de las Banderas, Rancho Santa Margarita, California 92688. (Plng.)

5. The owner or designee agrees to defend, indemnify and hold harmless the City of San Clemente and its elected and appointed boards, commissions, agents, officers and employees from any and all actions, suits, claims, liabilities, losses, damages, penalties, obligations, and expenses (including but not limited to attorneys' fees and costs) which may arise, directly or indirectly, from the acts, omissions; or operations of the owner or owner's agents, contractors, subcontractors, or employees concerning Amendment to Site Plan Permit 97-16 when such action is brought within the time period provided under Government Code Section 66499.37. The City shall notify the owner or designee of the pendency of any such action and request that the owner or designee defend such action. If
the owner or designee fails to do so, the City may defend the action and the owner or designee shall pay the cost thereof. The provisions herein shall not apply to the extent such damage, liability or claim is caused by the willful misconduct or sole active negligence of the City, or the City’s officers, officials, agents, employees or representatives.

ISSUANCE OF PERMITS

6. Prior to issuance of any permit, the owner or designee shall demonstrate to the satisfaction of the City Engineer or designee that all existing survey monuments are located in the field in compliance with AB 1414 for restoration by the Registered Civil Engineer or Land Surveyor in accordance with Section 8771 of the Business and Professions Code.

7. Prior to issuance of any permits, the owner or designee shall submit written consent to all of these imposed conditions to the Community Development Director or designee. The owner or designee understands that the resolution will be of no force or effect unless such written consent is submitted to the City.

8. Prior to issuance of grading permits, the owner or designee shall submit for review and shall obtain approval by the City Engineer or designee, plans for the regulation and control of pollutant run-off by using Best Management Practices (BMPs). The owner or designee shall demonstrate to the satisfaction of the City Engineer or designee that the project meets all requirements of the National Pollutant Discharge Elimination System (NPDES), Federal, State, San Diego Regional Water Quality Control Board, County and City guidelines and regulations, in order to control pollutant run-off and shall provide evidence satisfactory to the City Engineer or his designee that the required NPDES permits has been obtained.

9. Prior to issuance of grading permits, the owner or designee shall submit for review a project binder containing the following documents:

A. Notice of Intent filed with the California State Water Resources Control Board (NPDES Permit).


C. Copy of project Storm Water Pollution Prevention Plan (SWPPP).

D. Evidence of Compliance with the approved Regional Runoff Management Plan (ROMP).

10. Prior to issuance of grading permits, water quality basin plans shall be submitted for review and approval by the City, the plans shall be prepared by a Registered Civil
Engineer. In addition landscape plans for the basin shall be submitted for review and approval by the City, the plans shall be prepared by a specialized consultant in the design and landscaping of such basins.

11. Prior to issuance of any permit, the owner or designee shall demonstrate to the satisfaction of the City Engineer or designee that the project meets all requirements of the Orange County National Pollutant Discharge Elimination System (NPDES) Storm Drain Program, and Federal, State, County and City guidelines and regulations, in order to control pollutant run-off. If final guidelines are not in place, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for, plans for the regulation and control of pollutant run-off by using Best Management Practices (BMP's).

12. Prior to issuance of any grading permits, the City Engineer shall determine that development of the site shall conform to general recommendations presented in the geotechnical studies, including specifications for site preparation, landslide treatment, treatment of cut and fill, slope stability, soils engineering, and surface and subsurface drainage, and recommendations for further study.

13. Prior to issuance of any grading permits, the limits of grading shown on the Tentative Map must be verified by the Geotechnical Engineer. The owner or designee shall not be allowed to go beyond the limits as shown on the Tentative Map, unless approved by the Director of Community Development.

14. Prior to issuance of any grading permits unless previously provided, the owner or designee shall demonstrate to the satisfaction of the City Planner or designee that a 4(d) Section 7 or Section 10 permit has been obtained prior to commencing activities that would impact the gnatcatcher.

15. Prior to issuance of any grading permit unless previously provided, the owner or designee shall demonstrate to the satisfaction of the City Planner or designee that a Section 404 Permit and California Department of Fish and Game (CDFG) Streambed Alteration Agreement have been obtained prior to impacting wetlands and other waters of the U.S. Impacts to applicable wetland habitats shall be mitigated in a manner acceptable to the United States Army Corps of Engineers and CDFG.

16. Prior to issuance of grading permits unless previously provided, the owner or designee shall demonstrate to the satisfaction of the City Planner or designee that, at a minimum, plans and appropriate permits for the following on-site mitigation measures for impacts to biological resources have been approved:

A. Preservation of 6.90 acres of existing wetlands, and restoration and enhancement of an additional 4.6 acres of wetland habitat, located within the Marblehead Canyons (Lots C, G, L and S), as well as the three detention basins (Lots K, T, XX).
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B. Preservation of 10.4 acres of existing sage scrub habitat, and restoration and enhancement of 70 acres of sage scrub habitat, within the Canyons and open space adjacent to the preserved and restored wetlands.

C. Completion of the implementation of the measures required under the dudleya reserve translocation and management plan approved by the California Coastal Commission under CDP 5-97-136 in 1997, and CDP 5-03-013.

D. Provision for buffers around wetlands in canyon bottoms.

E. Funding under the Habitat Management Plan adequate to provide for long-term monitoring and management of preserved and restored biological resources.

17. Prior to issuance of rough grading permits, the owner or designee shall demonstrate to the satisfaction of the City Planner or designee that a monitoring biologist, acceptable to the United States Fish and Wildlife Service/California Department of Fish and Game, has been retained and shall be on site during any clearing of coastal sage scrub.

18. Prior to issuance of any grading permits, the owner or designee shall submit for review and obtain the approval of the City Building Official or designee for an acoustical analysis report prepared by a County approved acoustical consultant. The report shall describe, in detail, the exterior noise environment and preliminary requirements. Acoustical design features to achieve interior noise standards may be included in the report in which case it may also satisfy the following conditions:

A. Prior to issuance of any grading permits, the owner or designee shall provide evidence acceptable to the City Engineer, unless otherwise approved by the City Engineer or designee, that:

1) All construction vehicles or equipment, fixed or mobile, operated within 1,000 feet of a dwelling shall be equipped with operating and maintained mufflers.

2) No internal combustion equipment such as pumps or generators shall be allowed to operate within 500 feet of any occupied residence from 7:30 a.m. to 5:30 p.m. unless the equipment is surrounded by a noise protection barrier acceptable to the City Engineer or designee.

3) All operations shall comply with Orange County Codified Ordinance Division 6 (Noise Control).

4) Stockpiling and/or vehicle-storage areas shall be located as far as practicable and out of view from dwellings to the extent feasible.
5) The City of San Clemente Noise Ordinance, limiting the hours of construction and construction equipment maintenance to between 7:00 a.m. and 6:00 p.m. and to the days of Monday through Friday, excluding City holidays, shall be enforced.

B. Prior to issuance of residential precise grading permits and building permits, the owner or designee shall submit for review, and obtain the approval of the City Building Official or designee for, a final sound attenuation plan. All residential lots and dwellings shall be sound attenuated against present and projected noise, which shall be the sum of all noise impacting the project, so as not to exceed an exterior standard of 65 dB CNEL (Community Noise Equivalent Level) in outdoor living areas and an indoor standard of 45 dB CNEL in all habitable rooms. Evidence prepared by a County approved acoustical consultant shall indicate that standard six-foot perimeter walls will be adequate to satisfy these standards in a manner consistent with applicable City Ordinances or shall indicate other appropriate mitigation measures.

(MM 4.3-1.a, 4.3-1.c, 4.3-1.d) (Eng.) (Bldg.)

19. Prior to issuance of rough grading permits, rough grading plans shall be submitted to and approved by the City Engineer or designee. Said plans shall include provisions for:

(Eng.)

A. Stockpiling of topsoil for placement on finished slopes.
B. Erosion and siltation control.
C. Dust control.
D. Planting of vegetation on all exposed slopes as required by the Grading Ordinance.
E. Temporary sedimentation basins and sandbagging if necessary.

20. Prior to issuance of rough grading permits, a fossil preservation plan shall be approved by the City Planner. A qualified paleontologist (able to meet the criteria of, and be experienced in scientific methods acceptable to, the section of Vertebrate Paleontology of the Natural History Museum of Los Angeles County) identified in the plan shall attend any pre-grade meetings and monitor grading operations. If fossils are discovered, the paleontologist shall be empowered to divert or redirect grading in the vicinity of the remains in order to evaluate and salvage exposed prehistoric fossils. The plan shall provide for the following:

(MM 4.7-1, 2.e) (Eng.)

A. Sufficient time allowed for adequate evaluation and recovery operations to be completed.
(MM 4.7-1, 2.a, 2.b)
B. Marine and non-marine terrace sediments and sand lenses in the Capistrano Formation to be screened routinely for micro-vertebrate and invertebrate remains.

(MM 4.7-2.c)

C. All fossils collected to be catalogued, analyzed, and prepared to the point of identification, with the remains to be placed in the Orange County designated repository and/or a permanent systematics institution with a research and/or educational interest in fossils.

(MM 4.7-2.d)

21. This project shall be subject to all provisions of the Archaeology Plan prepared by Gavin H. Archer, RRPA, dated November 2002, as amended by the Archaeological Monitoring Treatment Plan dated February 20, 2003 and as further modified by the Coastal Commission by Condition No. 26 of Coastal Development Permit No. 5-03-013.

22. Prior to issuance of precise grading permits, the owner or designee shall submit for review, and obtain the approval of the City Engineer or designee, a precise grading plan as required by the City Grading Manual and Ordinance.

23. Prior to issuance of precise grading and building permits, the owner or designee shall submit, in accordance with the City-approved Utilities Master Plan, for review, and shall obtain the approval of the Community Development Director and Director, Beaches, Parks and Recreation or designee, a detailed landscape and irrigation plan (compatible with the City's Maxicom master controller for areas to be maintained by the City) and incorporating drought tolerant plants, for on- and off-site landscaping including, but not limited to, Avenida Pico median and all other medians, parkways, public trails, fuel modification areas, common areas and slopes, and other landscaped areas, prepared by a Registered Landscape Architect, and in compliance with all pertinent requirements including, but not limited to, the City's Landscape Guidelines, applicable Specific Plans, and guidelines contained in the City's Master Landscape Plan of Scenic Corridors except as modified by the Coastal Development Permit 5-03-013. A site-specific soils report, prepared by an authorized professional, regarding the tests and analyses of the agricultural suitability of the soil and recommendations shall be submitted for review for selected areas.

(BP&R)

24. The following standards shall apply for landscaping design, unless otherwise approved by the City or as modified by Coastal Development Permit 5-03-013:

- Minimum parkway tree size shall be 15-gallon for canopy trees and ten-foot (10') brown trunk height (BTU) for palms.

- Trees shall be planted and staked at thirty-foot intervals in residential parkway areas, or a minimum of one per residential lot frontage. Residential corner lots
shall include a minimum of two trees along the side yard parkway. Trees shall be located in a manner to avoid blocking public and private views to the fullest extent feasible.

C. A minimum of one canopy tree shall be provided within the front yard portion of each residential unit adjacent to a street and coordinated with the parkway street trees within the courtyard home neighborhood (Lots 183 to 313).

D. A minimum of one upright tree adjacent to the side wall facing the street of the central (Plan 1) freestanding garage, and one canopy tree for each of the other two front yards adjacent to the courtyard (per the Courtyard Homes Landscape Exhibit).

E. Landscaping shall not conflict with vehicular sight distance and shall comply with Orange County EMA Standard 1117.

F. All parkway trees shall maintain the following distances from improvements:

1) 10' 0" from water, sewer and storm drain lines;
2) 5' 0" from hardscape (curbs, sidewalks, street lights, utility boxes, fire hydrants, post indicator valve, fire detector checks, etc.), unless an approved species is planted in a tree well with 24" deep, continuous circle, root control barriers that are securely fastened at the joint with ribs inward;
3) 5' 0" from drive approaches; and
4) 25' 0" from curb return at street intersections.

G. Permanent landscape irrigation systems maintained by the Homeowners Association or the City shall be designed using the City's reclaimed water standards. In the event reclaimed water is not available at the time the system is put into operation, the system may be connected to the potable water system. When reclaimed water is available, the system shall be converted to reclaimed service. The owner or designee shall install reclaimed water service lines to the meter locations for future connection when reclaimed water is available.

H. All median streetscapes in public streets shall be designed to the standards of the Master Landscape Plan for Scenic Corridors except as modified by the Coastal Development Permit 5-03-013. All medians shall be provided with separate water meters, electric meters and irrigation controllers.

25. Prior to the issuance of grading and building permits, the owner or designee shall be responsible for updating the City's mylar Precise Zoning Map by integrating the recorded
map into the appropriate sheet(s) of the Zoning Map in a manner satisfactory to the City Planner or designee.

26. Prior to issuance of any residential building permits, the owner or designee shall submit for review and obtain the approval of the City Engineer or designee for additional construction level engineering studies which evaluate the limits of the existing 100-year flood plain based upon the existing and proposed stream geometry through the wetland area.

27. Prior to issuance of residential building permits, the owner or designee shall submit for review and obtain the approval of the Building Official or designee for plans which indicate that appropriate electrical system design to enable future use to charge electric-powered vehicles is provided in each residential unit.

28. Prior to issuance of building permits, the owner or designee shall pay all applicable development fees in effect at the time, which may include, but are not limited to, RCFPP, public safety plan check, Affordable Housing In-Lieu Fee on a per-unit basis, transportation corridor and school fees, etc.

29. Prior to issuance of any building permits, the owner or designee shall include within the first four pages of the working drawings a list of all Conditions of Approval imposed by the final approval for the project applicable to the particular phase of development.

30. Prior to issuance of any grading permits and following the completion of initial grading/earth movement activities, the owner or designee shall demonstrate to the satisfaction of the City Planner or designee that all areas of coastal sage scrub habitat to be avoided by construction equipment and personnel are marked with temporary fencing or other appropriate markers clearly visible to construction personnel. No construction access, parking or storage of equipment or materials, or other such construction activities, shall be permitted within such marked areas. In addition, during construction activities, coastal sage scrub areas identified for protection and located within the likely dust drift radius of construction areas shall be periodically sprayed with water to reduce accumulated dust on the leaves, as recommended by the monitoring biologist.

31. Prior to issuance of building permits, the owner or designee shall demonstrate to the satisfaction of the Fire Chief or designee that this project complies with Chapter 15.48 of the San Clemente Municipal Code, pertaining to emergency response standards.

32. Prior to issuance of building permits, or as otherwise authorized by the City Engineer or designee, the owner or designee shall demonstrate to the satisfaction of the City Engineer
33. This project shall be subject to all provisions of the City Regional Circulation Funding and Phasing Program (RCFPP). Residential building permits shall not be issued until the City Engineer or designee has certified that the arterial street network intended to serve the portions of the project for which permits are requested can accommodate the anticipated trip generation of the project within the acceptable level of service, standards. Approval of this project does not guarantee that traffic capacity will be available for the project at the time of permit application. In the event the RCFPP has not constructed the addition of a second westbound left-turn lane on Avenida Pico at the intersection of N. El Camino Real and Avenida Pico, and the City Engineer or designee determines that the level of service standards may be degraded through issuance of permits, then the owner or designee shall, prior to issuance of said permits, construct such improvements subject to RCFPP reimbursement. (Eng.)

34. Prior to issuance of residential building permits, the owner or designee shall submit for review, and shall obtain the approval of the City Building Official or designee for plans indicating all/any exterior fire-resistive features into the structures with exposed side facing to fuel modification zone and/or very high fire hazard severity zone that are required by building and fire codes. (Bldg)

35. Prior to issuance of any building permits, the owner or designee shall submit for review, and shall obtain the approval of the City Planner or designee for, landscape plans which indicate that all ground-mounted utility structures and equipment, including, but not limited to, standpipes, backflow prevention/double detector check equipment, shall be located out of view, from a public street and/or adequately screened through the use of walls and/or landscaping, to the extent feasible. (Plng)

36. Prior to or concurrent with the opening of Avenida Vista Hermosa to the public, the Marblehead Canyon Trails and the trails along the bluff consistent with the first phase Habitat Trail and Park Phasing Plan dated April 2, 2003, shall be open to the public. All trails and parks shall be open to the public prior to the 200th certificate of occupancy. (BP&R)

37. Prior to issuance of the 151st residential building permit, the construction of the full width of Avenida Vista Hermosa and median/parkway landscaping from the I-5 Interchange limits to Avenida Pico, including the bridge and signal improvements at all commercial center entrances, shall be substantially completed to the satisfaction of the City Engineer and Director of Beaches Parks and Recreation or designees. Pedestrian
38. Prior to issuance of the 151st residential building permit, the construction of the Avenida Pico ultimate widening and median/parkway landscaping from the existing improvements south of Calle de los Molinos to El Camino Real adjacent to the property, and the median modifications and signal at the Water Reclamation Plant entrance if determined necessary by the City Engineer, shall be completed to the satisfaction of the City Engineer and Director of Beaches Parks and Recreation.

39. Prior to issuance of the 251st residential building permit, the construction of El Camino Real (Pacific Coast Highway) widening improvements adjacent to the property, including installation of the Bluff Trail and bluff landscaping, shall be completed to the satisfaction of the City Engineer and Director of Beaches Parks and Recreation.

40. Prior to the issuance of building permits for residential or commercial buildings, the owner or designee shall submit plans for review by the City's architectural consultant. This review is in addition to other standard submittal and review requirements.

41. Building permits shall not be issued unless the project complies with all applicable codes, ordinances, and statutes including, but not limited to, the Zoning Ordinance, the Uniform Fire Code, Security Ordinance, Transportation Demand Ordinance, Water Quality Ordinance, Title 24 of the California Administrative Code, and the Uniform Codes as adopted by the City.

42. Prior to issuance of building permits, the owner or designee shall submit a copy of the City Engineer approved soils and geologic report, prepared by a registered geologist and/or soil engineer, which conforms to City standards and all other applicable codes, ordinances, statutes and regulations. The soils report shall accompany the building plans, engineering calculations, and reports.

43. Prior to the Building Division's approval to pour foundations, the owner or designee shall submit evidence to the satisfaction of the City Building Official or designee that a registered civil engineer that is licensed to do surveying or land surveyor has certified that the forms for the building foundations conform to the front, side and rear setbacks are in conformance to the approved plans.

44. Prior to issuance of building permits, the owner or designee shall submit for review, and shall obtain the approval of the City Planner or their designee for all street names and addresses associated with the project.
45. Prior to the Building Division's approval of the framing inspection, the owner or designee shall submit evidence to the satisfaction of the City Building Official or designee that a registered civil engineer that is licensed to do surveying or land surveyor has certified that the height of all structures are in conformance to the approved plans. (Bldg.)

46. Prior to issuance of building permits, or as otherwise authorized by the City Engineer or designee, the owner or designee shall demonstrate to the satisfaction of the City Engineer or designee that all water, sewer and/or storm drain facility improvements necessary to serve the development have been completed in accordance with the approved plans, and that the "as-built" plans, prepared by a registered civil engineer, have been submitted and approved by the City Engineer or designee. (Eng.)

47. Prior to the issuance of a building permit, the applicant shall submit evidence of the on-site fire hydrant system to the Fire Chief and indicate whether it is public or private. If the system is private, it shall be reviewed and approved by the Fire Chief prior to building permit issuance, and the applicant shall make provisions for the repair and maintenance of the system in a manner meeting the approval of the Fire Chief. Please contact the OCFA at (714) 744-0499 or visit the OCFA website for a copy of the "Guidelines for Private Fire Hydrant &/or Sprinkler Underground Piping." (Fire)

48. Prior to the recordation of a subdivision map or the issuance of any grading or building permits, the applicant shall provide evidence of adequate fire flow. The "Orange County Fire Authority Water Availability for Fire Protection" form shall be signed by the applicable water district and submitted to the Fire Chief for approval. If sufficient water to meet fire flow requirements is not available an automatic fire extinguishing system may be required in each structure affected. (Fire)

49. Prior to the issuance of a building permit, the applicant shall submit plans for any required automatic fire sprinkler system in any structure to the Fire Chief for review and approval. Please contact the OCFA at (714) 744-0499 for additional information. (Fire)

50. Prior to the issuance of any grading or building permits, the applicant shall obtain approval of the Fire Chief for all fire protection access roads to within 150 feet of all portions of the exterior of every structure on site. Please contact the OCFA at (714) 744-0499 or visit the OCFA website to obtain a copy of the "Guidelines for Emergency Access, or Bulletin number 08-99, "Fire Department Access Requirements for A Single Family Residence." (Fire)

51. Prior to the issuance of a precise grading permit or building permit, the applicant shall submit and obtain approval of the Fire Chief and City Staff of plans for all public or private access roads, streets and courts. The plans shall include plan and sectional views and indicate the grade and width of the access road measured flow-line to flow-line. When a dead-end street exceeds 150 feet or when otherwise required, a clearly marked
fire apparatus access turnaround must be provided and approved by the Fire Chief. Applicable CC&R's or other approved documents shall contain provisions which prohibit obstructions such as speed bumps/bumps, control gates or other modifications within said easement or access road unless prior approval of the Fire Chief is granted. Please contact the OCFA at (714) 744-0499 or visit the OCFA website to obtain a copy of the "Guidelines for Emergency Access."

52. Prior to the issuance of any grading or building permits, the applicant shall submit plans and obtain approval from the Fire Chief for fire lanes on required fire access roads less than 36 feet in width. The plans shall indicate the locations of red curbs and signage and include a detail of the proposed signage including the height, stroke and colors of the lettering and its contrasting background. Please contact the OCFA at (714) 744-0499 or visit the OCFA website to obtain a copy of the "Guidelines for Emergency Access Roadways and Fire Lane Requirements," or Bulletin 06-99, "Fire Lane Requirements on Private & Public Streets Within Residential Developments."

53. Prior to the issuance of a precise grading permit, the applicant shall obtain approval from the Fire Chief in consultation with the City Staff for a precise fuel modification plan and program. The plan shall indicate the proposed means of modifying vegetation to reduce the risk to structures. Please contact the OCFA at (714) 744-0499 or visit the OCFA website to obtain a copy of the "Guideline for Fuel Modification Plans and Maintenance."

54. Prior to the issuance of a building permit, the developer, under the supervision of the Fire Chief, shall have completed the portion of the approved fuel modification plan determined to be necessary before the introduction of any combustible materials into the project area. Approval shall be subject to an on-site inspection.

55. Prior to the issuance of any grading permits, the applicant shall obtain the approval from the Fire Chief for the construction of any gate across required fire department access roads. This includes the proposed gate indicated at the end of the cul-de-sac on Street "CCCC". Please contact the OCFA at (714) 744-0499 or visit the OCFA website to obtain a copy of the "Guidelines for Design and Installation of Emergency Access Gates and Barriers."

56. Prior to the issuance of a building permit for combustible construction, the builder shall submit a letter on company letterhead stating that water for fire-fighting purposes and all-weather fire protection access roads shall be in place and operational before any combustible material is placed on site. Building permits will not be issued without OCFA approval obtained as a result of an on-site inspection. Please contact the OCFA at (714) 744-0499 to obtain a copy of the standard combustible construction letter.

57. Prior to the issuance of a building permit, the applicant shall submit architectural plans for the review and approval of the Fire Chief if required per the "Orange County Fire
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Authority Plan Submittal Criteria Form." Please contact the OCFA at (714) 744-0499 for a copy of the Site/Architectural Notes to be placed on the plans prior to submittal.

(End)

58. Prior to the issuance of building permits for Custom Lots designated as Lots 78 to 146 of Tract 8817, the owner or designee shall submit architectural plans to the City of San Clemente Planning Division for review and approval in compliance with the Marblehead Coastal Specific Plan, Zoning Code, Marblehead Coastal Guest Builder Custom Lot Design Guidelines. Maximum residential building heights, residential square footage and other development standards shall be in compliance with the Marblehead Coastal Custom Lot Development Table provided herein as Exhibit 2. Any subsequent revisions to the Marblehead Coastal Guest Builder Custom Lot Design Guidelines shall be submitted to the City Planner for review and approval. Furthermore, the Custom Lot program and the merging of Custom Lots shall be permitted subject to the following:

A. Individual mergers shall be limited to a maximum of two (2) adjoining lots. The intent of this condition is to prohibit cumulative merging of lots. For example, the merging two lots to create one lot or merging three lots to create two lots is acceptable. However, the newly created lot(s) cannot be merged with additional lots to create a larger lot in the future.

B. Possible scenarios for lot mergers may consist of three (3) lots being merged into two (2) lots or two (2) lots being merged into one (1). For lot mergers of three (3) lots into two (2) it is anticipated that an unequal percentage of the lot to be absorbed will be distributed into the two remaining lots. For example, if an owner wants to merge Lot A, Lot B and Lot C into what will become Lot A and C, this percentage of allocation shall be calculated by the applicant's engineer or surveyor and is intended to equal the amount of the lot area split up in Lot B and distributed to Lots A and C such that if 60% of Lot B goes to Lot A and 40% goes to Lot C the square footage potential shall be allocated accordingly. For example, if Lot A is an 8,000 lot and Lot B is a 7,000 lot and Lot C is 8,000 and 60% of Lot B goes to Lot A, the maximum square footage for Lot A shall be 12,200 square feet (8,000+4,200) and the maximum square footage potential for Lot C is 10,800 square feet (8,000+2,800). The maximum residential square footage for any single residence shall not exceed 13,000 square feet. Lot mergers of two (2) lots into one (1) shall incorporate 50% of the square footage potential smaller adjacent lot to be merged into the newly merged lot. For example, if Lot A is an 8,000 lot and Lot B is a 7,000 lot the maximum square footage shall be 11,500 square feet (8,000+3,500). The maximum residential square footage for any single residence shall not exceed 13,000 square feet. Lot mergers of three (3) lots into one (1) shall not be permitted anywhere in the project. Lot mergers are limited to Lots 78 to 132 of Tract 8817.
C. Custom lot mergers shall be permitted for two or three adjoining side-by-side lots. Back to back custom lot mergers are prohibited.

D. Lots 140, 145 and 146 are not eligible for merging with any other lots.

E. Side yard setbacks for merged custom lots shall increase from 5 feet for a single custom lot as follows:
   1) 3 lots merged into two lots: 7.5' minimum sideyard/10' minimum corner sideyard.
   2) 2 lots merged into one lot: 10' minimum sideyard/15' minimum corner sideyard.

F. The merger of lots does not reduce the obligation for the payment of fees. For each lot that is merged, the owner shall be responsible for paying the appropriate fees that are based on 313 residential units and calculated on a per unit basis including, but not limited to, development fees described in Condition No. 28. Each unmerged lot shall count as one unit.

G. The merger of lots does not adjust the timing of obligations that are based on 313 residential units for the issuance of certain specified numbers of residential building permits including, but not limited to, the timing of the completion of parks, trails and road improvements as described in Condition Nos. 36, 37, 38 and 39. Each unmerged lot shall count as one unit.

H. The merger of lots and adjustments to lot lines shall be performed in a manner consistent with the State Subdivision Map Act, City Codes and acceptable to City Engineer and City Attorney.

I. Custom Lots adjacent to Colony Cove (Lots 140, 145, 146) shall be a maximum of 3,000 square feet of residential development within a 3,500 square foot rectilinear building envelope. The building footprint shall be within the previously approved building envelope per SPP 97-16. The building envelope may be extended a maximum of 10 feet adhering to all approved building setbacks. The maximum building height for these 3 lots shall be 16 feet. Tower elements as well as any lot merger scenarios shall be prohibited on these lots. The same criteria apply to Production Lots 147, 167 and 168. Refer to Exhibit 2, Maximum Development Table and Exhibit 3, Single Story Exhibit for additional details.

59. Prior to the issuance of building permits for residential Lots 139, 140, 144, 145, 146, 147, 148, 166, 167, 168, 169 and 174, the owner or designee shall submit improvement plans indicating that HVAC equipment, pool pumps and other related equipment shall be located at the property line furthest away from Colony Cove and installed in a manner to mitigate noise to the existing residential community of Colony Cove. ■■ (Plng.)
60. Prior to issuance of building permits, the owner or designee shall submit for review, and shall obtain the approval of the City Attorney or designee for, a buyer's notification disclosure form, to be given to all potential buyers, which indicates the existence, operations, characteristics, and potential exposure to nuisance/objectionable odors/risk of upset and/or hazards of the following:  
A. United States Marine Corps, Camp Pendleton 
B. San Onofre Nuclear Generating Station 
C. The Marblehead Coastal Wetland and Bluff Trails 
D. Orange County Flood Control Channel 
E. City of San Clemente Wastewater Treatment Plant. 
F. Marblehead Coastal Commercial Development 

A place for the buyers' written acknowledgment of these factors shall be provided on the disclosure forms. Copies of forms signed by the buyer shall be provided to the City Planner or designee within 30 days of the closure of escrow.

ISSUANCE OF CERTIFICATES OF OCCUPANCY

61. Prior to issuance of the first certificate of occupancy, the qualified project paleontologist shall submit to the City Planner or designee a copy of the final report that was submitted along with any recovered fossils to the designated repository which summarizes findings, including an itemized inventory and contextual stratigraphic data. 

(MM 4.7-2. f) (Plng.)____

62. Prior to the issuance of Certificates of Occupancy, the owner or designee shall demonstrate to the satisfaction of the City Planner or designee that all exterior lighting is designed, arranged, directed or shielded per the approved plans, and in such a manner as to contain direct illumination on site, thereby preventing excess illumination onto adjoining site(s) and/or street(s). 

(Plng.)____

63. Prior to issuance of certificates of occupancy, the owner or designee shall submit evidence that the Covenants, Conditions and Restrictions (CC&R's) for the courtyard homes include a statement that:  

A. Garages are to be used for parking of resident owned cars. Garages may only be used for storage to the extent that storage does not conflict with the ability of the resident to park resident owned cars.
B. On-street parking is reserved for guests.

These statements shall be in addition to the CC&R requirements identified as Condition No. 17 for AM TIM 8817 as adopted by Resolution No 03-075.

64. Prior to issuance of certificates of occupancy, the owner or designee shall demonstrate to the satisfaction of the City Building Official or designee that the project has been constructed in conformance with the approved sets of plans and all applicable, codes, ordinances, and standards. (Bldg.)

65. Prior to issuance of Certificates of Occupancy and/or acceptance of improvements by the City Engineer or designee, the owner or designee shall submit "as-built" plans prepared by a registered civil engineer for streets, traffic signals, street lights, sewer, water, storm drains, street signs, striping, traffic markings, painted curbs and all other required improvements. (Eng.)

66. Prior to issuance of Certificates of Occupancy, the owner or designee shall install all underground traffic signal conduit, including, but not limited to, signal, phone, power and loop detector; and other appurtenances, including, but not limited to, pull boxes; needed for future traffic signal construction at the intersections listed above, and as needed for future interconnection with adjacent intersections per the City Engineer or designee’s direction, in accordance with the submitted and approved street improvement plans. Estimated costs for this work shall be deducted from any cash-in-lieu payments (financial security) required for corresponding signals as a condition of approval of the tentative map. (Eng.)

67. Prior to issuance of certificates of occupancy, the owner or designee shall demonstrate to the satisfaction of the City Engineer or designee that the following have been installed per the approved improvement plans: public and/or private street name signs, regulatory and informational signs constructed of high intensity sheeting and .080 aluminum, traffic pavement markings controlling arterial, collector and residential street intersections, centerline and lane line striping, and curb painting. (Eng.)

68. Prior to issuance of certificates of occupancy, the owner or designee shall demonstrate to the satisfaction of the City Engineer and City Maintenance Manager or their designees that all street improvements have been completed and accepted and that any damage to new or existing street right-of-way during construction have been repaired/replaced. (Eng.) (Maint.)

69. Prior to issuance of certificates of occupancy and acceptance of improvements by the City Engineer, or designee, for each Development Phase in compliance with the City approved Construction Phasing and Mitigation Program unless an exception is granted by the City Engineer, the owner or designee shall submit as built plans prepared by a Registered Civil
Resolution No. 07-02

Engineer, depicting all underground public utilities completed to the satisfaction of the City Engineer for that Development Phase. (Eng.)

70. Prior to issuance of certificates of occupancy, the owner or designee shall demonstrate to the satisfaction of the Beaches, Parks and Recreation Director or designee that parkway trees have been planted and staked according to the submitted and approved landscape plans. (B,P&R)

71. Prior to issuance of certificates of occupancy for each Development Phase in compliance with the City approved Construction Phasing and Mitigation Program, the owner or designee shall submit a letter, signed by a Registered Landscape Architect, to the Community Development Director or designee, stating that all materials for all landscaped areas and irrigation have been installed in accordance with the approved plans, and shall demonstrate to the satisfaction of the Community Development Director or designee, in consultation with the Beaches, Parks and Recreation Director or designee, that all landscaped areas and irrigation, including but not limited to median/parkway/slope landscaping and irrigation, have been installed in accordance with the approved landscape plans. This requirement excludes the area covered by the Habitat Management Plan. (Plng.) (BP&R)

72. Prior to issuance of certificates of occupancy, the owner or designee shall provide evidence satisfactory to the City Engineer that each of the open space lots that the City does not intend to accept fee title to has been conveyed to the Homeowner's Association, the Commercial Property Owner's Association, or another entity acceptable to the City (such as a non-profit lands management entity). The City shall have no responsibility for the ongoing maintenance of open space lots not held in fee title by the City. (Eng.) (Plng.)

73. Prior to the issuance of any certificate of use and occupancy, all fire hydrants shall have a blue reflective pavement marker indicating the hydrant location on the street as approved by the Fire Chief, and must be maintained in good condition by the property owner. Please contact the OCFA at (714) 744-0499 or visit the OCFA website for a copy of the "Guideline for Installation of Blue Dot Hydrant Markers." (Fire)

74. Prior to the issuance of a certificate of use and occupancy, the fire alarm and sprinkler system shall be operational in a manner meeting the approval of the Fire Chief. (Fire)

75. Prior to the issuance of any certificate of use and occupancy, the fire lanes shall be installed in accordance with the approved fire lane plan. The CC&R's or other approved documents shall contain a fire lane map, provisions prohibiting parking in the fire lanes, and an enforcement method. (Fire)
76. Prior to the issuance of any certificate of use and occupancy, the fuel modification shall be installed and completed under the supervision of the Fire Chief with an approved plant pallet. The CC&R's or other approved documents shall contain provisions for maintaining the fuel modification zones, including the removal of all dead and dying vegetation. The fuel modification zones shall be subject to triennial inspections.

(Fire)___

RELEASE OF FINANCIAL SECURITY

77. Prior to release of financial security, the owner or designee shall demonstrate to the satisfaction of the City Engineer and the City Planner that the appropriate Association has been formed and that the CC&R's have been reviewed by the City Attorney, approved by same and recorded. (Plng.)___(Eng.)___

78. Prior to release of financial security, the owner or designee shall demonstrate to the satisfaction of the City Engineer or designee that all survey monuments damaged or destroyed are restored. "Corner Records" shall be prepared for submission to the City Engineering Division and for filing with the County Surveyor's Office in compliance with AB 1414. All restorations of survey monuments shall be certified by the Registered Civil Engineer or Land Surveyor in accordance with Section 8771 of the Business and Professions Code. (Eng.)___

79. Prior to release of financial security, the owner or designee shall submit as-built plans prepared by a Registered Civil Engineer, depicting all street, traffic signal, sewer, water, and storm drain improvements and street signage and signage placements, traffic markings and painted curbing and all required improvements shall be completed to the satisfaction of the City Engineer, or designee. (Eng.)___

80. Prior to release of financial security, the owner or designee shall have completed the stenciling of all catch basins and storm drain inlets with labels 3" high in black letters, on either the top of the curb or the curb face adjacent to the inlet "NO DUMPING - DRAINS TO OCEAN". These markings shall be maintained in good condition by the Property Owners Association or OEA entity. (Eng.)___

81. Prior to release of financial security, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for, a videotape, filmed in the presence of a City Staff representative, of all sewer and drainage improvements. The videotape shall become the property of the City. (Eng.)___

82. Prior to release of financial security, the owner or designee shall submit the following items, certified by a Registered Civil Engineer, to the Engineering Division: (Eng.)___

A. All construction improvement plans in digitized format (DXF file format).

B. Original mylars of all improvement plans corrected and certified by the engineer of record to be "As Built".
C. Duplicate mylars of the recorded Final Map.

D. Original mylars of all improvements and utilities at a scale of 1"=40’, or at an appropriate scale to be determined by the City Engineer or designee.

83. Prior to release of financial securities, the owner or designee shall submit to the City on 8 ½” x 11” sheet Centerline and Intersections Monument Ties signed and wet stamped by a Registered Engineer or Surveyor. (Eng.)

84. Prior to release of financial securities, the owner or designee shall provide a warranty bond in an amount of 25% of the faithful performance bond for each improvement accepted by the City. This warranty bond shall remain in place for one year from the date of acceptance of the improvement. (Eng.)

85. Prior to the release of financial security, all water and sewer systems, etc. shall be fully tested, in the presence of a City Staff, to verify system performance in accordance with design specifications. (Eng.)

86. Prior to the release of performance bonds, the owner or designee shall execute an agreement, to the satisfaction of the Community Development Director and the Beaches, Parks and Recreation Director or their designees, with the City which designates responsibility for maintenance and irrigation of parkway trees, shrubs and ground cover within the public right-of-way. The City or designee shall be responsible for maintaining all medians within the public right-of-way, and shall prune and keep disease-free all parkway trees within the public right-of-way. The owner or designee, or the homeowners’ association or designee, shall be responsible for watering all parkway trees, shrubs and ground cover within the public right-of-way, and shall trim and otherwise maintain parkway shrubs and ground cover. (BP&R)

87. Prior to release of financial security, the owner or designee shall submit mylar sheets at a scale of 1”=20’ or 1”=40’, or at an appropriate scale to be determined by the Beaches, Parks and Recreation Director or designee, showing as-builts of grading, trails, all park improvements, and median/parkway/slope landscaping and irrigation (including irrigation central control system) intended for City Maintenance. (BP&R)

88. Prior to release of financial security, if any of the areas within the development were in a flood zone, the owner or designee shall file and obtain approval of a letter of map revision from FEMA to revise the FEMA flood zone map. (Eng.)
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<th>NET PAD AREA</th>
<th>BUILDING ENVELOPE</th>
<th>MAX. SITE AREA</th>
<th>MAX.* RESIDENTIAL FLOOR AREA **</th>
<th>MAX. BLDG.</th>
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Exhibit 2: Custom Home Maximum Development Table
EXHIBIT 2: Custom Home Maximum Development Table Notes

Note: Custom Lot No. column arranged by Net Pad Area from least to greatest.

* If a series lot is an oversize lot (when net pad is 20% greater than minimum lot size — see asterisk), it may increase residential floor area. Examples:
  - 5,500 Series = 6,000 SF max. floor area, unless over 6,600 SF net pad, then can build 7,000 SF max. floor area, and if over 8,000 SF net pad, then 7,500 SF max. floor area.
  - 6,000 Series = 6,500 SF max. floor area, unless over 6,600 SF net pad then 7,000 SF max. floor area; if over 7,200 net pad, then can build 7,500 SF max. floor area.
  - 7,000 Series = 7,500 SF max. floor area, unless over 8,400 SF net lot, then can build to 8,000 SF max. floor area.

Any lot over 10,000 SF net pad may have maximum 9,600 SF of residential floor area.

** The 29' max. building heights have been reduced from the Specific Plan maximum of 35 feet. Tower element allowed (14' dia. or 14' x 14' ext.) one per house, to max. height of 31'. No towers on Lots 140, 145, 146 of Custom Lots or Lots 147, 167, 168 of Production Homes.

Custom Lots adjacent to Colony Cove (Lots 140, 145, 146) shall be a maximum of 3,000 square feet of residential development within a 3,500 square foot rectilinear building envelope. The building footprint shall be within the previously approved building envelope per SPP 97-16. The building footprint may be shifted a maximum of 10 feet adhering to all approved building setbacks. The maximum building height for these 3 lots shall be 16 feet. Tower elements as well as any lot merger scenarios shall be prohibited on these lots. The same criteria apply to Production Lots 147, 167 and 168. Refer to Exhibit 2, Maximum Development Table and Exhibit 3, Single Story Exhibit for additional details.

1. Per Approved Tract Map 8817

2. Per Rough Grading Plan. Net Pad Area will be refined and may increase/decrease in size (not height) per Precise Grading Plan prepared by future custom home lot owner.

3. Building Envelope = Horizontal Lot Area - Setbacks. Per definition in Custom Home Design Guidelines. The custom home must be constructed within the building envelope, subject to limitations imposed by Maximum Site Area Coverage (See Column F above and Footnote 5).

4. Maximum site area coverage (60% of Lot Area) applies to the ground floor and will not be achievable if larger than the "building envelope". Per definition in Custom Home Design Guidelines. It is a maximum not to be exceeded, even if potential "building envelope" would allow. Site Area Coverage for the first floor coverage will vary and usually be much less than the maximum due to the pool area, outdoor patio space, driveways, landscaping, etc.
EXHIBIT 2: Custom Home Maximum Development Table Notes

5. Residential Floor Area. Per definition in Custom Home Design Guideline and Zoning Code (17.88.030). (See "Habitable Square Footage" calculation in Guideline; Section 4.2 Architectural Standards for more information).

6. Possible scenarios for lot mergers may consist of three (3) lots being merged into two (2) lots or two (2) lots being merged into one (1). For lot mergers of three (3) lots into two (2) it is anticipated that an unequal percentage of the lot to be absorbed will be distributed into the two remaining lots. For example, if an owner wants to merge Lot A, Lot B and Lot C into what will become Lot A and C, this percentage of allocation shall be calculated by the applicant's engineer or surveyor and is intended to equal the amount of the lot area split up in Lot B and distributed to Lots A and C such that if 60% of Lot B goes to Lot A and 40% goes to Lot C the square footage potential shall be allocated accordingly. For example, if Lot A is a 8,000 lot and Lot B is a 7,000 lot and Lot C is 8,000 and 60% of Lot B goes to Lot A, the maximum square footage for Lot A shall be 12,200 square feet (8,000 + 4,200) and the maximum square footage potential for Lot C is 10,800 square feet (8,000+2,800). The maximum residential square footage for any single residence shall not exceed 13,000 square feet. Lot mergers of two (2) lots into one (1) shall incorporate 50% of the square footage potential smaller adjacent lot to be merged into the newly merged lot. For example, if Lot A is an 8,000 lot and Lot B is a 7,000 lot the maximum square footage shall be 11,500 square feet (8,000+3,500). The maximum residential square footage for any single residence shall not exceed 13,000 square feet. Lot mergers of three (3) lots into one (1) shall not be permitted anywhere in the project. Lot mergers are limited to Lots 78 to 132 of Tract 8817.
Resolution No. 04-61
A Resolution of the City Council of the City of San Clemente, CA, Approving Amendment to Site Plan Permit (AM SPP) 99-16, Marblehead Coastal Commercial Development
RESOLUTION NO.: 04-61

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF SAN CLEMENTE, CALIFORNIA, APPROVING AMENDMENT TO SITE PLAN
PERMIT (AM SPP) 99-16, MARBLEHEAD COASTAL COMMERCIAL
DEVELOPMENT

WHEREAS, on August 5, 1998 the City Council approved Tentative Tract Map 8817,
Site Plan Permit (SPP) 97-16 and Coastal Development Permit 97-42 to allow the subdivision of
250.6 acres and the development of a 434 single family residential dwelling units. Site Plan
Permit 97-17, Conditional Use Permit 97-18 and Sign Exception Permit 97-19 to allow
development of the commercial portion of the project were denied; and

WHEREAS, on July 7, 1999 the City Council approved Site Plan Permit 99-16,
Conditional Use Permit 99-17 and Sign Exception Permit 99-18 to allow the development of
443,860 square-feet of specialty retail, 176, 232 square-feet of entertainment and 80,048 square-
feet of general retail; and

WHEREAS, on March 1, 2000 the City Council approved an Amendment to Tentative
Tract Map 8817 and Site Plan Permit 97-16 to preserve additional existing wetland habitat and
reduce the number of homes from 434 to 424 and allow other related modifications to the
previously approved project; and

WHEREAS, on September 26, 2001, the City Council conceptually endorsed the site
plan revisions prior to the applicant submitting an application to the California Coastal
Commission; and

WHEREAS, on April 9, 2003, the California Coastal Commission conditionally
approved the Marblehead Coastal project; and

WHEREAS, on September 16, 2003, the City Council approved an Amendment to TMM
8817 to preserve additional environmentally sensitive habitat areas and other open space, reduce
the amount of developed acreage, including a reduction in commercial square footage and the
number of residential lots from 424 to 313; and

WHEREAS, on March 9, 2004, an application was submitted by MT No. 1, LLC, 16592
Hale Avenue, Irvine, California 92606 to request to amend previously approved commercial Site
Plan Permit 99-16 to allow the development of approximately 641,534 square-feet of commercial
uses including a 120 to 130 room hotel, conference center, theater, restaurants and outlet retail
uses; and
WHEREAS, the Planning Division completed an Environmental Initial Study for the above referenced project in accordance with the California Environmental Quality Act (CEQA). In accordance with Section 15164 of CEQA, the Planning Division prepared an Addendum to Final Environmental Impact Report (EIR) 95-01 for the Marblehead Coastal Project (State Clearing House Number 95091037). The Addendum addresses the impacts of modifications to the Site Plan Permit, updates previous studies and provides new analysis; and

WHEREAS, the City's Development Management Team reviewed the proposed Site Plan Permit for consistency with the General Plan policies and other applicable City ordinances and policies; and

WHEREAS, the Design Review Subcommittee regularly reviewed the proposed project between November 24, 2003 and June 7, 2004 and provided comments; and

WHEREAS, on June 2, 2004, the Planning Commission of the City of San Clemente held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the project applicant and other interested parties and continued the item to June 16, 2004 and;

WHEREAS, on June 16, 2004, the Planning Commission of the City of San Clemente held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the project applicant and other interested parties and adopted a resolution recommending approval of the project; and

WHEREAS, on July 20, 2004, the City Council of the City of San Clemente held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the project applicant and other interested parties.

NOW THEREFORE, the City Council of the City of San Clemente hereby resolves as follows:

Section 1: Pursuant to CEQA and the CEQA Guidelines, the San Clemente City Council certified Marblehead Coastal Final Environmental Impact Report (FEIR) 95-01 (SCH. NO. 95091037). Certification of the document also included the adoption of Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program. On July 1998, February 2000, August 2002, and December 2003, the City Council certified Addendums to FEIR 95-01. Addendum No. 5 to FEIR 95-01 considers all environmental impacts of the proposed project and is complete, and adequate and fully complies with all requirements of CEQA and the State CEQA Guidelines. Addendum No. 5 to Final EIR 95-01 thoroughly addresses proposed modifications to the Marblehead Coastal Project. Based on proposed modifications, no substantial changes are proposed in the project which will require major revisions of the Environmental Impact Report; there are no substantial changes with
respect to the circumstances under which the project is being undertaken which will require major revisions to the Environmental Impact Report, and there is no new information, which was not known and could not have been known at the time the Environmental Impact Report was certified as complete, no new significant environmental impacts would occur, nor would the severity of the impacts previously identified increase. The environmental review pursuant to Section 15164 (Addendum EIR) of the State CEQA Guidelines appropriately addresses environmental considerations associated with project revisions and none of the conditions identified in Section 15162 (Subsequent EIRs) occur. All records pertaining to the FEIR and Addendum are contained in the Planning Division of the City of San Clemente.

Section 2: The City Council of the City of San Clemente finds and determines as follows with regard to Amendment Site Plan Permit 99-16:

A. The proposed commercial development is permitted within the subject zone pursuant to the approval of a Site Plan Permit and complies with all of the applicable provisions of the Marblehead Specific Plan, the goals and objectives of the San Clemente General Plan, and the purpose and intent of the zone in which the development is being proposed in that:

1. The proposed project provides for retail outlet stores, restaurants, a theater, hotel conference center, and other permitted uses within the Regional Commercial portion of the Marblehead Coastal Specific Plan area.

2. The proposed project is consistent with the Land Use Element and the Conservation and Open Space Element of the City of San Clemente General Plan in that it has been determined that no encroachment into designated open space will occur as a result of the development of this project.

3. The proposed project is consistent with all other aspects of the City of San Clemente General Plan and the Marblehead Specific Plan with respect to grades, drainage and sanitary facilities, including alignments and grades thereof, location and size of all required easements and -rights-of-way; lot size and configuration; traffic circulation and access; and other specific requirements.

B. The site is suitable for the type and intensity of development that is proposed in that Planning Area RC 1A is designated for regional commercial development.

C. The proposed regional commercial development, as conditioned, will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity, in that the project is consistent with the General Plan and Marblehead Coastal Specific Plans, fits well within the surrounding community and will not be developed until all utility services are
available. All sewer and water services which will be provided to the site are the responsibility of the owner and his/her designee, and as conditioned, no building permits shall be issued prior to proof that such water and sewer systems can accommodate the project.

D. The proposed regional commercial development, as conditioned, will not be unsightly or create disharmony with its locale and surroundings, and the general appearance of the proposal is in keeping with the character of the neighborhood, in that:

1. The regional commercial site is buffered from adjacent land uses through the use of grade separation and landscape screening.

2. Roofs are designed to include parapets that will adequately screen roof-mounted equipment. The flat surface of the roof and roof-mounted equipment will be painted to match the color of the tile roof.

E. The proposed regional commercial development will minimize or eliminate adverse physical or visual effects which might otherwise result from unplanned or inappropriate development, design or location, and will not be detrimental to the orderly and harmonious development of the City of San Clemente, in that:

1. A condition of approval requires that delivery trucks comply with a truck routing plan to avoid conflicts with other vehicles and pedestrians.

2. Commercial parking meets or exceeds minimum standards.

3. Pedestrian sidewalks are proposed through the commercial development and an extensive public trail system is also provided.

F. The architectural treatment of the regional commercial project complies with the San Clemente General Plan, the Marblehead Specific Plan, and the San Clemente Zoning Ordinance in areas including, but not limited to, height, setback and color, etc., in that:

1. The proposed commercial uses comply with the maximum 45-foot height limit of the Marblehead Specific Plan Regional Commercial zone. The theater complies with the maximum 55-foot height limit and a maximum architectural projection of 62-feet.

2. The commercial development complies with the minimum average setback of 50-feet for all buildings with frontage along a major arterial.

G. The architectural treatment of the commercial project complies with the architectural guidelines in the City of San Clemente Design Guidelines and the Marblehead Specific Plan, in that:
Resolution No. 04-61

1. The architecture incorporates a variety of Spanish-influenced design elements to strengthen San Clemente’s unique character and historic identity of the “Spanish Village by the Sea”.

2. The building facades incorporate vertical and horizontal articulation to reduce apparent massing.

3. Varied architectural styles are balanced with unifying elements of building materials and project landscaping.

Section 3: The City Council hereby approves Amendment to Site Plan Permit 99-16 Marblehead Coastal Commercial Development, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED this ___ day of _____, 2004.

Mayor of the City of San Clemente, California

ATTEST:

CITY CLERK of the City of San Clemente, California

STATE OF CALIFORNIA )
COUNTY OF ORANGE ) ss
CITY OF SAN CLEMENTE)

I, Myrna Erway, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 04-61 was adopted at a regular meeting of the City Council of the City of San Clemente held on the ___ day of _____, 2004, by the following vote:

AYES: ANDERSON, DAHL, DOREY, EGLESTON, MAYOR RITSCHEL
NOES: NONE
ABSENT: NONE

CITY CLERK of the City of San Clemente, California
Resolution No. 04-62

Approved as to form:

[Signature]

City Attorney
CONDITIONS OF APPROVAL
AMENDMENT TO SITE PLAN PERMIT 99-16 MARBLEHEAD COASTAL COMMERCIAL DEVELOPMENT

GENERAL CONDITIONS

1. AM SPP 99-16 is subject to these conditions and all applicable Conditions of Approval for Amendment to Tentative Tract Map 8817 as approved by the City Council on September 16, 2003 with Resolution 03-75. Prior to Final Map approval for any portion of AM TTM 8817, the owner or designee shall submit for review, and shall obtain the approval of the City Council for, a Final Map prepared under the direction of a Registered Civil Engineer or a Licensed Land Surveyor. The Final Map(s) shall be subject to all pertinent requirements of the Subdivision Map Act and shall substantially conform to AM TTM 8817, AM SPP 99-16, City standards, and all other applicable approved plans, codes, ordinances, statutes and regulations.

2. This project is approved subject to the provisions of Final Environmental Impact Report (FEIR) 95-01 and subsequent Addendums and the mitigation measures adopted with FEIR, included by reference with these conditions of approval.

3. The owner or designee shall develop the approved project in conformance with all applicable submittals approved by the City subject to modifications by these Conditions of Approval. Any deviation from the applicable submittals recommended for approval by the Planning Commission shall require that, prior to the issuance of any permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the City Planner or designee. If the City Planner or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain the approval of the City Council.

4. The owner or designee shall not pave any street under which Cable TV conduit is to be placed without actual notice to Cox Communications or their successor in interest, for the installation of cable conduit. Notice shall be sent to the following address: Cox Communications, General Manager, 29947 Avenida de las Banderas, Rancho Santa Margarita, California 92688.

5. The owner or designee agrees to defend, indemnify and hold harmless the City of San Clemente and its elected and appointed boards, commissions, agents, officers and employees from any and all actions, suits, claims, liabilities, losses, damages, penalties, obligations, and expenses (including but not limited to attorneys’ fees and costs) which may arise, directly or indirectly, from the acts, omissions; or operations of the owner or owner’s agents, contractors, subcontractors, or employees concerning Amendment to Site Plan Permit 99-16 when such action is brought within the time period provided under
Government Code Section 66499.37. The City shall notify the owner or designee of the pendency of any such action and request that the owner or designee defend such action. If the owner or designee fails to do so, the City may defend the action and the owner or designee shall pay the cost thereof. The provisions herein shall not apply to the extent such damage, liability or claim is caused by the willful misconduct or sole active negligence of the City, or the City's officers, officials, agents, employees or representatives. (Png.)

6. AM Site Plan Permit 99-16 is approved with the intent that the theater (Building 22) and the hotel (Building 15) are architectural landmarks for the project. If either the hotel or theater is not constructed, then alternative architectural landmarks shall be developed. The development of alternative landmarks shall require the submittal and approval of an Amended Site Plan Permit including review by the City's Design Review Subcommittee, Planning Commission and City Council. This condition is in addition to Condition Nos. 38 and 39 which also relate to the theater and hotel buildings. (Png.)

7. The commercial bridge shall include the following design revisions to the satisfaction of the City Planner or designee and the City's architectural consultant: (Png.)
   A. Provide a minimum 5-foot wide sidewalk on the west side of the bridge.
   B. Corbels on the lower bridge beam shall be the same dimension as the support posts.
   C. Provide decorative posts between the bridge support columns and the decorative arch.

8. The reinforced earthen structure that supports the service road and utilities on the east side of the canyon shall incorporate the following design features to the satisfaction of the City Planner or designee and the City's architectural consultant: (Png.)
   A. The surface of the structure shall be constructed using integral earth-tone color concrete (such as green or beige) and have a rough surface.
   B. The slope at the base of the structure shall be planted with native trees and other native plants to screen the structure.

9. Signage and Signage Monuments are not part of this review. Any signage for this proposed development shall require the owner or designee to submit for review and obtain approval of an Amended Sign Exception Permit. (Png.)
ISSUANCE OF PERMITS

10. Prior to issuance of any permit, the owner or designee shall demonstrate to the satisfaction of the City Engineer or designee that all existing survey monuments are located in the field in compliance with AB 1414 for restoration by the Registered Civil Engineer or Land Surveyor in accordance with Section 8771 of the Business and Professions Code. (Eng.)

11. Prior to issuance of any permits, the owner or designee shall submit written consent to all of these imposed conditions to the Community Development Director or designee. The owner or designee understands that the resolution will be of no force or effect unless such written consent is submitted to the City. (Eng.)

12. Prior to issuance of grading permits, the owner or designee shall submit for review and shall obtain approval by the City Engineer or designee, plans for the regulation and control of pollutant run-off by using Best Management Practices (BMPs). The owner or designee shall demonstrate to the satisfaction of the City Engineer or designee that the project meets all requirements of the National Pollutant Discharge Elimination System (NPDES), Federal, State, San Diego Regional Water Quality Control Board, County and City guidelines and regulations, in order to control pollutant run-off and shall provide evidence satisfactory to the City Engineer or his designee that the required NPDES permits has been obtained. (Eng.)

13. Prior to issuance of grading permits, the owner or designee shall submit for review a project binder containing the following documents: (Eng.)

A. Notice of Intent filed with the California State Water Resources Control Board (NPDES Permit).
C. Copy of project Storm Water Pollution Prevention Plan (SWPPP).
D. Evidence of Compliance with the approved Regional Runoff Management Plan (ROMP).

14. Prior to issuance of any permit, the owner or designee shall demonstrate to the satisfaction of the City Engineer or designee that the project meets all requirements of the Orange County National Pollutant Discharge-Elimination System (NPDES) Storm Drain Program, and Federal, State, County and City guidelines and regulations, in order to control pollutant run-off. If final guidelines are not in place, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for, plans for the regulation and control of pollutant run-off by using Best Management Practices (BMP's). (Eng.)
15. Prior to issuance of any grading permits, the City Engineer shall determine that development of the site shall conform to general recommendations presented in the geotechnical studies, including specifications for site preparation, landslide treatment, treatment of cut and fill, slope stability, soils engineering, and surface and subsurface drainage, and recommendations for further study.

16. Prior to issuance of any grading permits, the limits of grading shown on the Tentative Map must be verified by the Geotechnical Engineer. The owner or designee shall not be allowed to go beyond the limits as shown on the Tentative Map, unless approved by the Director of Community Development.

17. Prior to issuance of any grading permits unless previously provided, the owner or designee shall demonstrate to the satisfaction of the City Planner or designee that a 4(d) Section 7 or Section 10 permit has been obtained prior to commencing activities that would impact the gnatcatcher.

18. Prior to issuance of any grading permit unless previously provided, the owner or designee shall demonstrate to the satisfaction of the City Planner or designee that a Section 404 Permit and California Department of Fish and Game (CDFG) Streambed Alteration Agreement have been obtained prior to impacting wetlands and other waters of the U.S. Impacts to applicable wetland habitats shall be mitigated in a manner acceptable to the United States Army Corps of Engineers and CDFG.

19. Prior to issuance of grading permits unless previously provided, the owner or designee shall demonstrate to the satisfaction of the City Planner or designee that, at a minimum, plans and appropriate permits for the following on-site mitigation measures for impacts to biological resources have been approved:

A. Preservation of 6.90 acres of existing wetlands, and restoration and enhancement of an additional 4.6 acres of wetland habitat, located within the Marblehead Canyons (Lots C, G, L and S), as well the three detention basins (Lots K, T, XX).

B. Preservation of 10.4 acres of existing sage scrub habitat, and restoration and enhancement of 70 acres of sage scrub habitat, within the Canyons and open space adjacent to the preserved and restored wetlands.

C. Completion of the implementation of the measures required under the dudleya reserve translocation and management plan approved by the California Coastal Commission under CDP 5-97-136 in 1997, and CDP 5-03-013.

D. Provision for buffers around wetlands in canyon bottoms.

E. Funding under the Habitat Management Plan adequate to provide for long-term monitoring and management of preserved and restored biological resources.

(Eng.) (Plng.)
20. Prior to issuance of rough grading permits, the owner or designee shall demonstrate to the satisfaction of the City Planner or designee that a monitoring biologist, acceptable to the United States Fish and Wildlife Service/California Department of Fish and Game, has been retained and shall be on site during any clearing of coastal sage scrub.

21. Prior to issuance of any grading permits, the owner or designee shall submit for review and obtain the approval of the City Building Official or designee for an acoustical analysis report prepared by a County-approved acoustical consultant. The report shall describe, in detail, the exterior noise environment and preliminary requirements. Acoustical design features to achieve interior noise standards may be included in the report in which case it may also satisfy the following conditions:

A. Prior to issuance of any grading permits, the owner or designee shall provide evidence acceptable to the City Engineer, unless otherwise approved by the City Engineer or designee, that:

1) All construction vehicles or equipment, fixed or mobile, operated within 1,000 feet of a dwelling shall be equipped with operating and maintained mufflers.

2) No internal combustion equipment such as pumps or generators shall be allowed to operate within 500 feet of any occupied residence from 7:30 a.m. to 5:30 p.m. unless the equipment is surrounded by a noise protection barrier acceptable to the City Engineer or designee.

3) All operations shall comply with Orange County Codified Ordinance Division 6 (Noise Control).

4) Stockpiling and/or vehicle-storage areas shall be located as far as practicable and out of view from dwellings to the extent feasible.

5) The City of San Clemente Noise Ordinance, limiting the hours of construction and construction equipment maintenance to between 7:00 a.m. and 6:00 p.m. and to the days of Monday through Friday, excluding City holidays, shall be enforced.

B. Prior to issuance of precise grading permits and building permits for the hotel, the owner or designee shall submit for review, and obtain the approval of the City Building Official or designee for, a final sound attenuation plan. All hotel guest rooms shall be sound attenuated against present and projected noise, which shall be the sum of all noise impacting the project, so as not to exceed an indoor standard of 45 dB CNEL in all habitable rooms. Evidence prepared by a County-approved acoustical consultant shall indicate that these standards will be
satisfied in a manner consistent with applicable City Ordinances or shall indicate other appropriate mitigation measures.

22. Prior to issuance of rough grading permits, rough grading plans shall be submitted to and approved by the City Engineer or designee. Said plans shall include provisions for:

A. Stockpiling of topsoil for placement on finished slopes.
B. Erosion and siltation control.
C. Dust control.
D. Planting of vegetation on all exposed slopes as required by the Grading Ordinance.
E. Temporary sedimentation basins and sandbagging if necessary.

23. Prior to issuance of rough grading permits, a fossil preservation plan shall be approved by the City Planner. A qualified paleontologist (able to meet the criteria of, and be experienced in scientific methods acceptable to, the section of Vertebrate Paleontology of the Natural History Museum of Los Angeles County) identified in the plan shall attend any pre-grade meetings and monitor grading operations. If fossils are discovered, the paleontologist shall be empowered to divert or redirect grading in the vicinity of the remains in order to evaluate and salvage exposed prehistoric fossils. The plan shall provide for the following:

A. Sufficient time allowed for adequate evaluation and recovery operations to be completed. (MM 4.7-1, 2.a, 2.b)
B. Marine and non-marine terrace sediments and sand lenses in the Capistrano Formation to be screened routinely for micro-vertebrate and invertebrate remains. (MM 4.7-2.c)
C. All fossils collected to be catalogued, analyzed, and prepared to the point of identification, with the remains to be placed in the Orange County designated repository and/or a permanent systematics institution with a research and/or educational interest in fossils. (MM 4.7-2.d)

24. This project shall be subject to all provisions of the Archaeology Plan prepared by Gavin H. Archer, RRPA, dated November 2002, as amended by the Archaeological Monitoring Treatment Plan dated February 20, 2003 and as further modified by the Coastal Commission by Condition No. 26 of Coastal Development Permit No. 5-03-013.
25. Prior to issuance of precise grading permits, the owner or designee shall submit for review, and obtain the approval of the City Engineer or designee, a precise grading plan as required by the City Grading Manual and Ordinance. (Eng.)

26. Prior to issuance of precise grading and building permits, the owner or designee shall submit a detailed landscape and irrigation plan in compliance with all pertinent requirements including, but not limited to, the City's Landscape Guidelines, applicable Specific Plans, and guidelines contained in the City's Master Landscape Plan of Scenic Corridors except, as modified by the Coastal Development Permit 5-03-013. A site-specific soils report, prepared by an authorized professional, regarding the tests and analyses of the agricultural suitability of the soil and recommendations shall be submitted for review for selected areas. (BP&R)

The following standards shall apply for landscaping design, unless otherwise approved by the City or as modified by Coastal Development Permit 5-03-013:

■ (Eng.) (Eng.) (BPR)

A. Minimum parkway tree size shall be 15-gallon for canopy trees and ten-foot (10') brown trunk height (BTH) for palms.

B. Trees shall be planted and staked at thirty-foot intervals in commercial parkway areas. Trees shall be located in a manner to avoid blocking public and private views to the fullest extent feasible.

C. Landscape materials within the private commercial lots shall be installed in substantial conformance with the approved site plans, landscape concept plans, construction drawings and professional practices.

D. Landscaping shall not conflict with vehicular sight distance and shall comply with Orange County EMA Standard 1117.

E. All parkway trees shall maintain the following distances from improvements:

1) 10' 0" from water, sewer and storm drain lines;

2) 5' 0" from hardscape—(curbs, sidewalks, street lights, utility boxes, fire hydrants, post indicator valves, fire detector checks, etc.), unless an approved species is planted in a tree well with 24" deep, continuous circle, root control barriers that are securely fastened at the joint with ribs inward;

3) 5' 0" from drive approaches, and-

4) 25' 0" from curb return at street intersections.
F. All landscape irrigation systems shall be designed using the City's reclaimed water standards. In the event reclaimed water is not available at the time the system is put into operation, the system may be connected to the potable water system. When reclaimed water is available, the system shall be converted to reclaimed service. The owner or designee shall install reclaimed water service lines to the meter locations for future connection when reclaimed water is available.

27. Prior to issuance of precise grading and building permits for Buildings 14, 17, 19, 22 or 24, as shown on the site plan approved by City Council, the owner or designee shall submit landscape plans for the Caltrans right-of-way between Interstate 5 and the commercial pads. The landscape plans shall provide a combination of trees, shrubs and groundcovers which enhance the building facades in a manner acceptable to the City Planner or designee. (Plng.)

28. Prior to issuance of precise grading plans and building permits for Buildings 14, 17, 19, 22 or 24, as shown on the site plan approved by City Council, the owner or designee shall submit landscape plans for the Open Space Lots: "SSS" and "TTT" (the slope on the south side of the commercial site) to be approved by the Community Development Director or designee. The grading plans and landscape plans shall include the following design features:

A. Non combustible screen wall shall be natural finish and designed to blend into the natural environment to the fullest extent feasible.

B. Slope landform grading shall incorporate landform grading techniques such as variable slope ratios to create a more natural appearance.

C. The coastal sage scrub restoration within the Habitat Management Plan area shall incorporate plant materials with a variety of textures, colors and mature heights in a manner to create a gradation in height toward the commercial site to the extent consistent with the Habitat Management Plan and as approved by OCPA.

29. Prior to the issuance of grading and building permits; the owner or designee shall be responsible for updating the City's mylar Precise Zoning Map by integrating the recorded map into the appropriate sheet(s) of the Zoning Map in a manner satisfactory to the City Planner or designee. (Plng.)

30. Prior to issuance of building permits, the owner or designee shall pay all applicable development fees in effect at the time; which may include, but are not limited to, RCFPP, public safety plan check, transportation corridor fees, etc.

(MM 4.2-1) (Eng.) (Bldg.)
Prior to issuance of any building permits, the owner or designee shall include within the first four pages of the working drawings a list of all Conditions of Approval imposed by the final approval for the project applicable to the particular phase of development. (Bldg.)

Prior to issuance of any grading permits and following the completion of initial grading/earth movement activities, the owner or designee shall demonstrate to the satisfaction of the City Planner or designee that all areas of coastal sage scrub habitat to be avoided by construction equipment and personnel are marked with temporary fencing or other appropriate markers clearly visible to construction personnel. No construction access, parking or storage of equipment or materials, or other such construction activities, shall be permitted within such marked areas. In addition, during construction activities, coastal sage scrub areas identified for protection and located within the likely dust drift radius of construction areas shall be periodically sprayed with water to reduce accumulated dust on the leaves, as recommended by the monitoring biologist. (MM 4.12-2.c, 2.d) (Eng.)

Prior to issuance of building permits, the owner or designee shall submit a copy of the City Engineer approved soils and geologic report, prepared by a Registered Geologist and Geotechnical Engineer, which conforms to City standards and all other applicable codes, ordinances, statutes and regulations. The soils report shall accompany the building plans, engineering calculations, and reports. (Bldg.)

Prior to issuance of building permits, or as otherwise authorized by the City Engineer or designee, the owner or designee shall demonstrate to the satisfaction of the City Engineer or designee that all underground public utilities necessary to allow construction to proceed for the Development Phase in compliance with the City-approved Construction Phasing and Mitigation Program have been completed in accordance with the approved plans, and that the as-built progress plans for said improvements, prepared by a Registered Civil Engineer, have been submitted and approved by the City Engineer or designee. (Eng.)

Prior to issuance of commercial building permits, the owner or designee shall submit for review, and shall obtain the approval of the City Building Official or designee for, plans indicating all any exterior fire-resistive features into the structures with exposed side facing to fuel modification zone and/or very high fire hazard severity zone that are required by building and fire codes. (Bldg)

Prior to issuance of any building permits, the owner or designee shall submit for review, and shall obtain the approval of the City Planner or designee for, landscape plans which indicate that all ground-mounted utility structures and equipment, including but not limited to, standpipes, backflow prevention/double detector check equipment, shall be located out of view, from a public street and/or adequately screened through the use of walls and/or landscaping, to the fullest extent feasible. (Eng.)
37. Prior to the issuance of building permits for any parking lots or parking structures, the owner or designee shall submit a parking lot construction phasing plan. Any parking areas disturbed but not developed as parking lot or parking structure shall be hydroseeded or treated in compliance with the City’s erosion control standards to the satisfaction of the City Planner or designee. (Plng.)

38. Prior to the issuance of building permits for the theater (Building 22), as shown on the site plan approved by City Council, the owner or designee shall submit and obtain the approval of architectural construction documents indicating that the theater floor is relatively flat and the building is designed in a manner to allow for potential future adaptive uses other than a theater. (Plng.)

39. Prior to issuance of building permits for Buildings 12 and 13 within the hotel development area, as shown on the site plan approved by City Council, the owner or designee shall submit and obtain the approval for building permits for the construction of the hotel and conference center (Buildings 14 and 15). If the hotel and conference center are not developed, then the owner shall submit an application for an Amended Site Plan Permit for the hotel development area including the possible redesign, modification or elimination of Buildings 12, 13, 14 and 15, as well as the parking lots and related improvements that serve those buildings. The intent of this condition is to ensure that the hotel portion of the site is developed in a comprehensive manner. (Plng.)

40. Prior to issuance of precise grading permits and building permits for the hotel, the owner or designee shall submit for review, and obtain the approval of the City Building Official or designee for, a final sound attenuation plan. All hotel guest rooms shall be sound attenuated against present and projected noise, which shall be the sum of all noise impacting the project, so as not to exceed an indoor standard of 45 dB CNE in all habitable rooms. Evidence prepared by a County-approved acoustical consultant shall indicate that these standards will be satisfied in a manner consistent with applicable City Ordinances. The report shall describe, in detail, the exterior noise environment and preliminary mitigation measures. Acoustical design features to achieve interior noise standards may be included in the report. (Bldg.)

41. Prior to the issuance of building permits for commercial buildings, the owner or designee shall submit plans for review and approval by the City’s architectural consultant. Staff shall review the buildings for compliance with the Amended Site Plan Permit and Design Review Subcommittee Meeting Minutes. This review is in addition to other standard submittal and review requirements. (Plng.)

42. Prior to the issuance of building permits for Buildings 9, 12, 16, 17, 18, 19 and 20, as shown on the site plan approved by City Council, the owner or designee shall submit for review by the City’s architectural consultant, the City Planner or designee and the Design Review Subcommittee, architectural elevations for the following elevations: Building 16 North and South elevations; Buildings 17 and 19 West elevations; Building 18 North and
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East elevations; Building 20 North, East and South elevations; Restaurant Buildings 9 and 12.

43. Prior to issuance of building permits, the owner or designee shall submit for review and obtain the approval of the City Planner or designee for plans indicating the following (unless otherwise approved by the City’s architectural consultant):

A. Two-piece clay tile roofing shall be used with booster tiles on the edges and ridges and random mortar packing. The mortar shall be packed on 100 percent of the tiles in the first two rows of tiles and along any rake and ridgeline, and shall be packed on 20 percent of the tiles on the remaining field. Mortar packing shall serve as bird stops at the roof edges. The thickness of pack shall be determined by the City Planner or designee.

B. Variations in tile color and size between individual building segments is encouraged. Tile roofing for the theater (Building 22) should be larger than other buildings to correspond with the bigger scale of the theater.

C. Roof slopes shall vary from 3.5:12 to 5.5:12 with an average of 4:12.

D. Stucco walls with a ‘steel, hand troweled’ (no machine application), smooth Mission finish and slight undulations (applied during brown coat) and bull-nosed corners and edges, including archways (applied during lathe), with no control/expansion joints.

44. Prior to issuance of any commercial building permits, the owner or designee shall submit for review and obtain approval of the Director of Community Development or designee plans indicating that the height of any roof mounted equipment shall not exceed the height of the parapet wall intended to screen the equipment. Shed roofs (non-full roofs) shall be a minimum width of 16-feet. The non-tile portions of the roof and the roof-mounted equipment shall be painted in such a manner as to cause the equipment to blend with the roof when viewed from surrounding areas. Additional screening devices may be required in conjunction with tenant improvements if deemed necessary by the Director of Community Development.

45. Building permits shall not be issued unless the project complies with all applicable codes, ordinances, and statutes including, but not limited to, the Zoning Ordinance, the Uniform Fire Code, Security Ordinance, Transportation Demand Ordinance, Water Quality Ordinance, Title 24 of the California Administrative Code, and the Uniform Codes as adopted by the City.

A. The type of construction and allowable building floor area of each building shall comply with 2001 California Building Code Section 504 and table 5-B. Prior to
issuance of building permits, a licensed architect shall submit building area calculations to show that all proposed construction is within allowable building area code limitations for the proposed construction type.

B. Fire-resistance of exterior walls and openings must comply with 2001 California Building Code Section 503.3 and Table 5-A based on distances to actual and artificial property lines between buildings.

C. Provide handicapped accessible path of travel from the bus drop off areas to building entrances per 2001 California Building Code Section 1131B.4.

D. Provide accessible path of travel between all groups of buildings. Indicate path of travel to Buildings 6, 7 and 8 from other areas per 2001 California Building Code Section 1127B.1.

E. The number and size of handicapped parking spaces must comply with 2001 California Building Code Section 1129B and 11B-6.

F. Incorporate all/any exterior fire resistive features into the structures with exposed side facing to fuel modification zone and/or very high fire hazard severity zone that are required by building and fire codes.

46. Prior to issuance of building permits, the owner or designee shall submit a copy of the City Engineer approved soils and geologic report, prepared by a registered geologist and/or soil engineer, which conforms to City standards and all other applicable codes, ordinances, statutes and regulations. The soils report shall accompany the building plans, engineering calculations, and reports. (Bldg.)

47. Prior to the Building Division's approval to pour foundations, the owner or designee shall submit evidence to the satisfaction of the City Building Official or designee that a registered civil engineer that is licensed to do surveying or land surveyor has certified that the forms for the building foundations conform to the front, side and rear setbacks are in conformance to the approved plans. (Bldg.)

48. Prior to issuance of building permits, the owner or designee shall submit for review, and shall obtain the approval of the City Planner or their designee for all street names and addresses associated with the project. (Plng.)

49. Prior to the Building Division's approval of the framing inspection, the owner or designee shall submit evidence to the satisfaction of the City Building Official or designee that a registered civil engineer that is licensed to do surveying or land surveyor has certified that the height of all structures are in conformance to the approved plans. (Bldg.)

50. Prior to issuance of building permits, or as otherwise authorized by the City Engineer or designee, the owner or designee shall demonstrate to the satisfaction of the City Engineer...
or designee that all water, sewer and/or storm drain facility improvements necessary to
serve the development have been completed in accordance with the approved plans, and
that the "as-built" plans, prepared by a registered civil engineer, have been submitted and
approved by the City Engineer or designee. (Eng.)

51. Prior to the issuance of a building permit, the applicant shall submit evidence of the on­
site fire hydrant system to the Fire Chief and indicate whether it is public or private. If
the system is private, it shall be reviewed and approved by the Fire Chief prior to building
permit issuance, and the applicant shall make provisions for the repair and maintenance
of the system in a manner meeting the approval of the Fire Chief. Please contact the
OCFA at (714) 744-0499 or visit the OCFA website for a copy of the "Guidelines for
Private Fire Hydrant &/or Sprinkler Underground Piping." (Fire)

52. Prior to the recordation of a subdivision map or the issuance of any grading or building
permits, the applicant shall provide evidence of adequate fire flow. The "Orange County
Fire Authority Water Availability for Fire Protection" form shall be signed by the
applicable water district and submitted to the Fire Chief for approval. If sufficient water
to meet fire flow requirements is not available an automatic fire extinguishing system
may be required in each structure affected. (Eng.)

53. Prior to the issuance of a building permit, the applicant shall submit plans for any
required automatic fire sprinkler system in any structure to the Fire Chief for review and
approval. Please contact the OCFA at (714) 744-0499 for additional information.
(Fire)

54. Prior to the issuance of any grading or building permits, the applicant shall obtain
approval of the Fire Chief for all fire protection access roads to all portions of the exterior
of every structure on site. Please contact the OCFA at (714) 744-0499 or visit the OCFA
website to obtain a copy of the "Guidelines for Emergency Access." (Fire)

55. Prior to the issuance of a precise grading permit or building permit, the applicant shall
submit and obtain approval of the Fire Chief and City Staff of plans for all public or
private access roads, streets and courts. The plans shall include plan and sectional views
and indicate the grade and width of the access road measured flow-line to flow-line.
When a dead-end street exceeds 150 feet or, when otherwise required, a clearly marked
fire apparatus access turnaround must be provided and approved by the Fire Chief.
Applicable CC&R's or other approved documents shall contain provisions which prohibit
obstructions such as speed bumps/humps, control gates or other modifications within said
easement or access road unless prior approval of the Fire Chief is granted. Please contact
the OCFA at (714) 744-0499 or visit the OCFA website to obtain a copy of the
"Guidelines for Emergency Access." (Fire)

56. Prior to the issuance of any grading or building permits, the applicant shall submit plans
and obtain approval from the Fire Chief for fire lanes on required fire access roads less
than 36 feet in width. The plans shall indicate the locations of red curbs and signage and include a detail of the proposed signage including the height, stroke and colors of the lettering and its contrasting background. Please contact the OCFA at (714) 744-0499 or visit the OCFA website to obtain a copy of the "Guidelines for Emergency Access Roadways and Fire Lane Requirements." (Fire)

57. Prior to the issuance of a precise grading permit, the applicant shall obtain approval from the Fire Chief in consultation with the City Staff for a precise fuel modification plan and program. The plan shall indicate the proposed means of modifying vegetation to reduce the risk to structures. Please contact the OCFA at (714) 744-0499 or visit the OCFA website to obtain a copy of the "Guideline for Fuel Modification Plans and Maintenance." (Fire)

58. Prior to the issuance of a building permit, the developer, under the supervision of the Fire Chief, shall have completed the portion of the approved fuel modification plan determined to be necessary before the introduction of any combustible materials into the project area. Approval shall be subject to an on-site inspection. (Fire)

59. Prior to the issuance of any grading permits, the applicant shall obtain the approval from the Fire Chief for the construction of any gate across required fire department access roads. Please contact the OCFA at (714) 744-0499 or visit the OCFA website to obtain a copy of the "Guidelines for Design and Installation of Emergency Access Gates and Barriers." (Fire)

60. Prior to the issuance of a building permit for combustible construction, the builder shall submit a letter on company letterhead stating that water for fire-fighting purposes and all-weather fire protection access roads shall be in place and operational before any combustible material is placed on site. **Building permits will not be issued without OCFA approval obtained as a result of an on-site inspection.** Please contact the OCFA at (714) 744-0499 to obtain a copy of the standard combustible construction letter. (Fire)

61. Prior to the issuance of a building permit, the applicant shall submit architectural plans for the review and approval of the Fire Chief if required per the "Orange County Fire Authority Plan Submittal Criteria Form." Please contact the OCFA at (714) 744-0499 for a copy of the Site/Architectural Notes to be placed on the plans prior to submittal. (Fire)

**ISSUANCE OF CERTIFICATES OF OCCUPANCY**

62. Prior to the issuance Certificates of Occupancy, the owner or designee shall demonstrate to the satisfaction of the City Planner or designee that all exterior lighting is designed, arranged, directed or shielded per the approved plans, and in such a manner as to contain direct illumination on site, thereby preventing excess illumination onto adjoining site(s) and/or street(s). (Pmg.)
63. Prior to issuance of certificates of occupancy, the owner or designee shall submit evidence that the Covenants, Conditions and Restrictions (CC&R’s) and lease agreements for the commercial development include a statement that:

A. Delivery trucks shall be required to comply with the truck routing plan.

B. A parking management plan shall be included with each tenant lease agreement which requires that employees do not park in the parking lots adjacent to Buildings 9 through 15.

These statements shall be in addition to the CC&R requirements identified as Condition No. 17 for AM TTM 8817 as adopted by Resolution No 03-075.

64. Prior to issuance of certificates of occupancy, the owner or designee shall demonstrate to the satisfaction of the City Building Official or designee that the project has been constructed in conformance with the approved sets of plans and all applicable, codes, ordinances, and standards.

65. Prior to issuance of Certificates of Occupancy and/or acceptance of improvements by the City Engineer or designee, the owner or designee shall submit “as-built” plans prepared by a registered civil engineer for all applicable streets, traffic signals, street lights, sewer, water, storm drains, street signs, striping, traffic markings, painted curbs and all other required improvements.

66. Prior to issuance of Certificates of Occupancy, the owner or designee shall install, if applicable, all underground traffic signal conduit, including, but not limited to, signal, phone, power and loop detector; and other appurtenances, including, but not limited to, pull-boxes; needed for future traffic signal construction at the intersections listed above, and as needed for future interconnection with adjacent intersections per the City Engineer or designee’s direction, in accordance with the submitted and approved street improvement plans. Estimated costs for this work shall be deducted from any cash-in-lieu payments (financial security) required for corresponding signals as a condition of approval of AM TTM 8817.

67. Prior to issuance of certificates of occupancy, the owner or designee shall demonstrate to the satisfaction of the City Engineer or designee that the following have been installed per the approved improvement plans (if applicable): public and/or private street name signs, regulatory and informational signs constructed of high intensity sheeting and .080 aluminum, traffic pavement markings controlling arterial, collector and residential street intersections, centerline and lane line striping, and curb painting.

68. Prior to issuance of certificates of occupancy, the owner or designee shall demonstrate to the satisfaction of the City Engineer and City Maintenance Manager or their designees
that all street improvements have been completed and accepted and that any damage to
ew or existing street right-of-way during construction have been repaired/replaced.

(Eng.) (Maint.)

69. Prior to issuance of certificates of occupancy and acceptance of improvements by the City
Engineer, or designee, for each Development Phase in compliance with the City-approved
Construction Phasing and Mitigation Program unless an exception is granted by the City
Engineer, the owner or designee shall submit as built plans prepared by a Registered Civil
Engineer, depicting all underground public utilities completed to the satisfaction of the
City Engineer for that Development Phase.

(Eng.)

70. Prior to issuance of certificates of occupancy, the owner or designee shall demonstrate to
the satisfaction of the Beaches, Parks and Recreation Director or designee that parkway
trees have been planted and staked according to the submitted and approved landscape
plans.

(B.P&R)

71. Prior to issuance of certificates of occupancy for each Development Phase in compliance
with the City-approved Construction Phasing and Mitigation Program, the owner or
designee shall submit a letter, signed by a Registered Landscape Architect, to the
Community Development Director or designee, stating that all materials for all
landscaped areas and irrigation have been installed in accordance with the approved
plans, and shall demonstrate to the satisfaction of the Community Development Director
or designee, in consultation with the Beaches, Parks and Recreation Director or designee,
that all landscaped areas and irrigation, including but not limited to median/parkway/slope landscaping and irrigation, have been installed in accordance with
the approved landscape plans. This requirement excludes the area covered by the Habitat
Management Plan.

(Ping.) (BP&R)

72. Prior to the issuance of any certificate of occupancy for Buildings 2 through 5 or the
parking structure, the owner or designee shall submit a letter, signed by a Registered
Landscape Architect stating that all landscape materials and irrigation including, but not
limited to potted plants on the parking structure, landscape plantings at the perimeter of
the parking structure and vines on trellis structures have been installed in accordance with
the approved plans and standard professional practice. (Ping.)

73. Prior to the issuance of any certificate of use and occupancy, all fire hydrants shall have a
blue reflective pavement marker indicating the hydrant location on the street as approved
by the Fire Chief, and must be maintained in good condition by the property owner.
Please contact the OCFA at (714) 744-0499 or visit the OCFA website for a copy of the
"Guideline for Installation of Blue Dot Hydrant Markers."

(Fire)

74. Prior to the issuance of a certificate of use and occupancy, the fire alarm and sprinkler
system shall be operational in a manner meeting the approval of the Fire Chief.

(Fire)
Prior to the issuance of any certificate of use and occupancy, the fire lanes shall be installed in accordance with the approved fire lane plan. The CC&R’s or other approved documents shall contain a fire lane map, provisions prohibiting parking in the fire lanes, and an enforcement method.

(Fire)____

Prior to the issuance of any certificate of use and occupancy, the fuel modification shall be installed and completed under the supervision of the Fire Chief with an approved plant pallet consistent with the approved Fuel Management Plan. The CC&R’s or other approved documents shall contain provisions for maintaining the fuel modification zones, including the removal of all dead and dying vegetation. The fuel modification zones shall be subject to triennial inspections.

(Fire)____

**RELEASE OF FINANCIAL SECURITY**

Prior to release of financial security, the owner or designee shall demonstrate to the satisfaction of the City Engineer and the City Planner that the appropriate Association has been formed and that the CC&R’s have been reviewed by the City Attorney, approved by same and recorded.

(Pmg.)____ (Eng.)____

Prior to release of financial security, the owner or designee shall demonstrate to the satisfaction of the City Engineer or designee that all survey monuments damaged or destroyed are restored. "Corner Records" shall be prepared for submission to the City Engineering Division and for filing with the County Surveyor's Office in compliance with AB 1414. All restorations of survey monuments shall be certified by the Registered Civil Engineer or Land Surveyor in accordance with Section 8771 of the Business and Professions Code.

(Eng.)____

Prior to release of financial security, the owner or designee shall submit (if applicable) as-built plans prepared by a Registered Civil Engineer, depicting all street, traffic signal, sewer, water, and storm drain improvements and street signage and signage placements; traffic markings and painted curbing and all required improvements shall be completed to the satisfaction of the City Engineer; or designee:

(Eng.)____

Prior to release of financial security, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for, a videotape, filmed in the presence of a City Staff representative, of all sewer and drainage improvements (if applicable). The videotape shall become the property of the City.

(Eng.)____

Prior to release of financial security, the owner or designee shall submit (if applicable) the following items; certified by a Registered Civil Engineer; to the Engineering Division (Eng.)____

A. All construction improvement plans in digitized format (DXF file format).
B. Original mylars of all improvement plans corrected and certified by the engineer of record to be "As Built".

C. Duplicate mylars of the recorded Final Map.

D. Original mylars of all improvements and utilities at a scale of 1"=40', or at an appropriate scale to be determined by the City Engineer or designee

82. Prior to release of financial securities, the owner or designee shall submit to the City on 8 ½" x 11" sheet Centerline and Intersections Monument Ties signed and wet stamped by a Registered Engineer or Surveyor. (Eng.)

83. Prior to release of financial securities, the owner or designee shall provide a warranty bond in an amount of 25% of the faithful performance bond for each improvement accepted by the City. This warranty bond shall remain in place for one year from the date of acceptance of the improvement. (Eng.)

84. Prior to the release of financial security, all water and sewer systems, e.g., pump stations, generators, reservoirs, PRV's, etc. shall be fully tested, in the presence of a City Staff, to verify system performance in accordance with design specifications. (Eng.)

85. Prior to release of financial security, if any of the areas within the development were in a flood zone, the owner or designee shall file and obtain approval of a letter of map revision from FEMA to revise the FEMA flood zone map. (Eng.)

* All Conditions of Approval are Standard, unless indicated as follows:

■ Denotes modified Standard Condition of Approval

■■ Denotes project-specific Condition of Approval
Resolution No. 04-14
A Resolution of the City Council of the City of San Clemente, CA, Approving Marblehead Coastal Parks and Trails Master Plans
RESOLUTION NO. 04-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING MARBLEHEAD COASTAL PARKS AND TRAIL MASTER PLANS

WHEREAS, on May 6, 1993, the City Council of the City of San Clemente approved Resolution 93-32, the Comprehensive General Plan Amendment 92-05 with a Parks and Recreation Element and certified Environmental Impact Report No. EIR 92-04; and

WHEREAS, on August 5, 1998 the City Council approved Tentative Tract Map 8817, Site Plan Permit 97-16 and Coastal Development Permit 97-42 to allow the subdivision of 250.6 acres and the development of a 434 single family residential dwelling units; and

WHEREAS, on June 2, 1999, the City Council of the City of San Clemente approved Resolution 99-46 adopting the 1999 Parks and Recreation Master Plan and certified EIR 92-04; and

WHEREAS, on March 1, 2000 the City Council approved an Amendment to Tentative Tract Map 8817 and Site Plan Permit 97-16 to preserve additional existing wetland habitat and reduce the number of homes from 434 to 424 and allow other related modifications to the previously approved project; and

WHEREAS, on September 16, 2003 the City Council approved an Amendment to Tentative Tract Map 8817 to preserve additional environmentally sensitive habitat areas and other open space, reduce the amount of developed acreage including a reduction in commercial square footage and the number of residential lots from 424 to 313; and

WHEREAS, Conditions of Approvals for Amendment to Tentative Tract Map 8817 required the preparation of Master Plans for the Marblehead Coastal Parks and Trails; and

WHEREAS, the Planning Division completed an Addendum to Final Environmental Impact Report (EIR) 95-01 for the Marblehead Coastal Project (State Clearing House No. 95091037) in accordance with Section 15164 of the California Environmental Quality Act (CEQA). The Addendum addresses the Marblehead Coastal Parks and Trails Master Plans, updates previous studies and provides new analysis; and

WHEREAS, on November 11, 2003, the Parks and Recreation Commission held a duly noticed public meeting and considered evidence of staff, the general public and other interested parties and voted 7-0 to recommend that City Council approve the Marblehead Coastal Parks and Trail Master Plans; and
WHEREAS, on December 16, 2003, the Zoning Administrator held a duly noticed public hearing and considered evidence of staff, the applicant and other interested parties and adopted a resolution approving Minor Architectural Permit 03-209 to allow the development of Restroom and Picnic Shelters within the Marblehead Coastal Parks; and

WHEREAS, on December 17, 2003, the Planning Commission held a duly noticed public hearing and considered evidence of staff, the applicant and other interested parties and adopted a resolution approving Conditional Use Permit 03-210 to allow the installation of athletic field lighting at the Marblehead Coastal Sports Park; and

WHEREAS, on January 6, 2004, the City Council held a duly noticed public hearing and considered evidence of staff, the applicant and other interested parties.

NOW THEREFORE, the City Council of the City of San Clemente hereby resolves as follows:

Section 1: Pursuant to state CEQA Guidelines, on August 5, 1998 the San Clemente City Council certified Marblehead Coastal Final Environmental Impact Report (FEIR) 95-01 (SCH NO. 95091037). Certification of the document also included adoption of Findings of Fact, Statement of Overriding Considerations, and Mitigation, Monitoring and Reporting Program. Addenda to Final EIR 95-01 were approved by the City Council in July 1998, February 2000 and September 2003. Addendum No. 4 (December 2003) to FEIR 95-01 considers all environmental effects of the proposed project and is complete and adequate and fully complies with all requirements of CEQA and the State CEQA Guidelines. Addendum No. 4 to Final EIR 95-01 thoroughly addresses proposed modifications to the Marblehead Coastal Parks and Trails Master Plan. Based on proposed modifications, no substantial changes are proposed in the project which will require major revisions of the Environmental Impact Report; there are no substantial changes with respect to the circumstances under which the project is being undertaken which will require major revisions to the Environmental Impact Report, and there is no new information, which was not known and could not have been known at the time the Environmental Impact Report was certified as complete, no new significant environmental impacts would occur, nor would the severity of the impacts previously identified increase. The environmental review pursuant to Section 15164 (Addendum EIR) of the State CEQA Guidelines appropriately addresses environmental considerations associated with project revisions and none of the conditions identified in Section 15162 (Subsequent EIRs) occur. All records pertaining to the FEIR and Addendum are contained in the Planning Division of the City of San Clemente.

Section 2: The City Council approves the Marblehead Coastal Parks and Trails Master Plans including separate master plans for the (a) Sports Park, (b) Ocean View Park, and (c) Public Trails System.

Section 3: The City Council finds and determines as follows with regard to the Marblehead Coastal Parks and Trails Master Plans:
A. The proposed public parks and trails improvements are permitted within the subject zone and comply with all of the applicable provision of the Marblehead Coastal Specific Plan, the goals and objectives of the San Clemente General Plan, the Parks and Recreation Master Plan and the purpose and intent of the zone in which the parks and trails are being proposed.

B. The parks and trails locations are suitable for the type and intensity of development that is proposed and the purpose of the parks and trails are to serve all members of the public and residents of the City of San Clemente as well as the residents of the Marblehead Coastal community.

C. The proposed parks and trails will not be unsightly or create disharmony with their locations and surroundings, and the general appearance of the proposed parks and trails is in keeping with the proposed character of the Marblehead Coastal community.

D. The proposed parks and trails will not be detrimental to the public health, safety or welfare or materially injurious to properties and improvements in the vicinity, in that they serve recreational and open space needs defined as beneficial to public health, safety and welfare in the General Plan and Parks and Recreation Master Plan, and they will be constructed to meet all building, health and safety codes or guidelines for public parks, buildings and trails.

E. The proposed parks and trails will minimize or eliminate adverse physical or visual effects which might otherwise result from unplanned or inappropriate development, design or location, and will not be detrimental to the orderly and harmonious development of the City, in that they serve recreational needs previously considered and planned, which mitigate the general pressures of urban development.

F. Sports field lighting of the three soccer fields within the proposed sports park shall be eliminated.

G. A pedestrian walkway from the proposed sports park to Via Socorro shall be eliminated unless the California Coastal Commission staff denies the elimination of the stairway. If the California Coastal Commission staff denies the elimination of the stairway, then the City Council agrees to reinstate the installation of the stairway as part of the sports park improvements.

H. The proposed ocean view park includes the relocation of a restroom building from lot N to lot R unless the California Coastal Commission staff denies the relocation. If the California Coastal Commission staff denies the relocation of the restroom building, then the City Council agrees to reinstate the original location at lot N as part of the park improvements and continue to include a restroom building at lot R.
I. The proposed sports park adjacent to Shorecliffs Middle School is designed with parking spaces to accommodate anticipated park uses. However, the City agrees, at the request of the adjacent commercial center property owner, to conduct a review of the actual parking usage at the sports park (with said review format to be mutually agreeable to both the City and the adjacent commercial center property owner), in order to evaluate whether parking demand is spilling into the commercial center parking areas across Avenida Vista Hermosa. If a spillover is occurring, the City will evaluate what measures are necessary to (i) reduce the peak parking demand within the sports park, or (ii) increase the number of parking spaces within the park or in the vicinity of the park to accommodate the parking demand.

J. The City supports allowing the commercial center property owner the right to monitor and enforce parking facilities within the commercial center to ensure that the intended use of the parking facilities are not subject to abuse by people using the proposed sports park.

K. The proposed sports park shall not be constructed until the required parking lot easement is approved by the Capistrano Unified School District.

L. Geotechnical borings and drainage improvements shall be required at the proposed sports park to ensure that subsurface water does not move toward the Shorecliffs community.

M. The proposed sports park landscaped berm between the sports park and Via Socorro shall be maximized to provide a buffer for adjacent residents from the park.

Section 3: The City Council of the City of San Clemente hereby approves the Marblehead Coastal Parks and Trails Master Plans including (1) Sports Park Master Plan, (2) Ocean View Park Master Plan, and (3) Trails Master Plan subject to the above findings.
Resolution No. 04-14

PASSED AND ADOPTED this 2nd day of March, 2004

Mayor of the City of San Clemente, California

ATTEST:

Myrna Erway
CITY CLERK of the City of San Clemente, California

STATE OF CALIFORNIA
COUNTY OF ORANGE
CITY OF SAN CLEMENTE

I, MYRNA ERWAY, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 04-14 was adopted at a regular meeting of the City Council of the City of San Clemente held on the 2nd day of March, 2004, by the following vote:

AYES: ANDERSON, DAHL, DOREY, EGGLESTON, MAYOR RITSCHEL

NOES: NONE

ABSENT: NONE

Myrna Erway
CITY CLERK of the City of San Clemente, California

Approved as to form:

/s/ Jeff Odemark
City Attorney
April 14, 2004

Mr. Karl Schwing
Coastal Program Analyst
California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

Re: City of San Clemente Approval
Public Parks and Trails Master Plans for Marblehead Coastal Project

Dear Mr. Schwing:

At the March 2, 2004 City Council meeting, the San Clemente City Council approved the Marblehead Coastal Public Parks and Trails Master Plans, submitted to the City by MT No. 1, LLC.

The City Council also authorized the following:

1. Authorized City staff to work with the Applicant to finalize Plans & Specifications for all parks and trails improvements.
2. Authorized MT No. 1, LLC to complete the installation of the approved parks and trails improvements within the time limits as provided within the California Coastal Commission “Conditional Approval.”

The Marblehead Coastal Public Parks and Trails Master Plans, as updated on April 5, 2004, as well as other attachments accompanying the letter to you from RBF Consulting dated April 5, 2004, have been reviewed by City staff and are in compliance with the intent of the City.

We appreciate the opportunity to work closely with you as this project moves forward.

Sincerely,

Bruce Wegner, Beaches
Director of Beaches, Parks & Recreation
California Coastal Commission
Coastal Development Permit, as amended
Date: March 27th, 2006
Permit Application No.: 5-03-013 as amended thru A-3
COASTAL DEVELOPMENT PERMIT, as amended

On April 9, 2003, the California Coastal Commission approved Coastal Development Permit No. 5-03-013, requested by MT No. 1 LLC, subject to standard and special conditions, for development consisting of:

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

On February 17, 2005, the California Coastal Commission approved Coastal Development Permit Amendment No. 5-03-013-A1, requested by MT No. 1 LLC, subject to the attached conditions, for:

Reconfiguration of commercial and residential lots within the previously approved subdivision; increase grading by 263,400 cubic yards including changing the foundation design of the previously approved Avenida Vista Hermosa bridge to eliminate loffelstein walls; extend sub drain; increase height of ‘courtyard’ residential units from 24 to 30 feet; within the coastal zone reduce square footage of commercial development from 141,506 square feet to 77,576 square feet and increase parking from 1,732 spaces to 2,276 spaces; widen Via Socorro and Los Molinos streets; widen proposed Sports Park access road and increase parking from 60 to 158 spaces; expand streetscape plant palette to include non-native plant species; minor changes to stormdrain system; add a public park restroom; minor re-alignments and improvements to public trail connectivity; and eliminate deadline for dedication of nine open space lots. More specifically described in the application file in the Commission offices.

On September 14, 2005, the predecessor-in-interest to MT No. 1 LLC, SunCal Marblehead LLC, submitted Application No. 5-03-013-A2, which was rejected by the Executive Director on October 14, 2005.
COASTAL DEVELOPMENT PERMIT, as amended
Date: March 27, 2006
Permit Application No.: 5-03-013, as amended thru -A3
Page 2 of 54

On November 18, 2005, the California Coastal Commission approved Coastal Development Permit No. 5-03-013-A3, requested by SunCal Marblehead LLC, (hereinafter referred to as 'applicant' and/or 'permittee') subject to the attached conditions, for development consisting of:

Request to amend CDP no. 5-03-013 (Marblehead) in order to provide funding to partially offset the Commission’s costs for its consideration of the permit application and condition compliance. This funding will provide additional temporary personnel so that a team of permanent Commission staff can expedite the review of prior to issuance documents for CDP no. 5-03-013...
More specifically described in the application file in the Commission offices.

The development is within the coastal zone Northwest of the intersection of Avenida Pico and N. El Camino Real, City of San Clemente (Orange County) 691-011-20, 691-011-21, 691-011-22, 691-011-25 (formerly -23), 691-352-01.

Issued on behalf of the California Coastal Commission on March 27, 2006.

Sincerely,
PETER M. DOUGLAS
Executive Director

By: Karl Schwing
Supervisor, Regulation & Planning
(Orange County Area)

**ACKNOWLEDGEMENT ON THE NEXT PAGE**
COASTAL DEVELOPMENT PERMIT, as amended
Date: March 27, 2006
Permit Application No.: 5-03-013, as amended thru -A3
Page 3 of 54

ACKNOWLEDGMENT:
The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part that: "A Public entity is not liable for injury caused by the issuance. . . of any permit . . . " applies to the issuance of this permit, as amended.


SUNCAL MARBLEHEAD LLC,
a Delaware limited liability company

By: SunCal Marblehead Mezz Borrower LLC,
a Delaware limited liability company
Its: Sole equity member

By: SunCal Master JV LLC,
a Delaware limited liability company
Its: Sole equity member

By: SC Master Holdings II LLC,
a Delaware limited liability company
Its: Member

3/27/06
Date

By: Bruce Elieff
Its: Authorized Signatory

3/27/06
Date

By: Bruce Elieff
Its: Manager

Please sign and return one copy of this form to the Commission office at the above address.

Italicized text identifies text added or otherwise modified pursuant to Special Condition No. 1.E or 6
COASTAL DEVELOPMENT PERMIT, as amended
Date: March 27, 2006
Permit Application No.: 5-03-013, as amended thru –A3
Page 4 of 54

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

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

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

SPECIAL CONDITIONS (as amended thru amendment –A1):

NOTE: References to 'this permit' in these permit conditions are references to the permit as amended, except where otherwise indicated.

1. OPEN SPACE, HABITAT, PARKS, AND PUBLIC ACCESS REQUIREMENTS

A. Open Space Restriction – Habitat Restoration Areas

No development, as defined in Section 30106 of the Coastal Act shall occur within the land identified as the habitat restoration areas in the final habitat management plan approved by the Executive Director (as generally, but not fully depicted in Exhibit 18 attached to the findings adopted on June 11, 2003 in support of approval of the original permit) generally comprised of a portion of the El Camino Real right-of-way and Lots C, D, F, J, K, L, M, P, Q, R, and the portion of NN (inside Coastal Zone) on pending final Tract Map No. 8817 submitted by the applicant and approved by the Executive Director pursuant to Special Condition 5.F. on March 3, 2006 (hereinafter referred to in these Special Conditions as 'PFM 8817'), and as described and depicted in an exhibit (Exhibits C.1.A & C.1.A.1) attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit except for the following: habitat restoration and other development necessary to implement the final habitat management plan; fuel modification within those areas identified in the final fuel management plan; installation of utilities (only
as approved by this permit); construction of water quality management structures (only as approved by this permit), grading (only as approved by this permit), public access trails and associated appurtenances (only as approved by this permit), re-construction of existing drains (only as approved by this permit), maintenance and repair activities pursuant to an in conjunction with the management and maintenance program detailed in Special Condition 4.A.

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

The lands identified in this restriction shall be maintained in accordance with the final maintenance and funding program approved by the Executive Director in accordance with Special Condition 4.

B. Open Space Restriction and Access Requirement – Residual Open Space & Park Areas

No development, as defined in Section 30106 of the Coastal Act shall occur within the areas of the proposed open space lots identified below and as described and depicted in an exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit except for the following development: additional habitat restoration not listed in the final habitat management plan, other development necessary to implement the final habitat management plan; fuel modification (only as identified in the final fuel management plan); landscaping (only as approved by this permit); construction of utilities (only as approved by this permit); construction of water quality management structures (only as approved by this permit); grading (only as approved by this permit); public access and recreation facilities and associated appurtenances (only as approved by this permit); public roads and parking areas (only as approved by this permit); re-construction of existing drains (only as approved by this permit), maintenance and repair activities pursuant to an in conjunction with the management and maintenance program detailed in Special Condition 4.A. This restriction shall apply to the following areas [Exhibits C.1.B. & C.1.B.1] (excepting those areas of land identified in Special Condition 1.A (if any)): all of the land within Lots A, B, E, G, H, I, O, V, X, Y, DD, EE, MM, and OO on PFM 8817.

All areas of the above identified land shall be open to the general public for recreational use except as restricted in these special conditions. Those portions of the above identified lands that are to be used for habitat restoration shall be open to entities designated to undertake habitat restoration.

Italicized text identifies text added or otherwise modified pursuant to Special Condition No. 1.E or 6
COASTAL DEVELOPMENT PERMIT, as amended
Date: March 27, 2006
Permit Application No.: 5-03-013, as amended thru -A3
Page 6 of 54

The following additional development may be allowed in the areas covered by this condition (1.B.) if approved by the Coastal Commission as an amendment to this coastal development permit or a new coastal development permit: habitat restoration; landscaping; construction and maintenance of public recreation and access facilities and appurtenances; maintenance, repair and upgrade of utilities, water quality management structures, and drains; and erosion control and repair.

The lands identified in this restriction shall be maintained in accordance with the final maintenance and funding program approved by the Executive Director in accordance with Special Condition 4.

C. Public Trails and Bikeways

No development, as defined in Section 30106 of the Coastal Act, shall occur within the access corridors identified below and as described and depicted in an exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit except for the following development: grading and construction necessary to construct the trails, bikeways and other development approved by this permit, public access and recreation facilities and appurtenances (e.g. signs, interpretive facilities, benches, shade structures, safety fencing), vegetation planting and removal, underground utilities, drainage devices, erosion control and repair, maintenance and repair activities pursuant to an in conjunction with the management and maintenance program detailed in Special Condition 4.A, provided that development that diminishes public access through any identified corridor shall be prohibited. This restriction shall apply to the following areas [Exhibits C.1. C. & C.1. C.1]: The lands for public trails and bikeways, as depicted on final plans approved by the Executive Director but generally depicted on Marblehead Coastal, Amended Tentative Tract No. 8817, Sheets 1 and 2, dated February 14, 2003 and Marblehead Coastal Amended Residential Site Plan #97-16, plot date February 14, 2003. Except as noted on the plans identified above, all pedestrian trails shall have a minimum 10 foot wide corridor with a minimum 8 foot wide improved trail1. Widths of bicycle corridors and trails shall be as described on Tentative Tract 8817.

The public access trails and associated appurtenances within the above identified land shall be open to the general public for recreational use.

The following additional development if approved by the Coastal Commission as an amendment to this coastal development permit or a new coastal development permit may be allowed in the areas covered by this condition (1.C.): maintenance of development authorized by this permit, trails and bikeways, public access and recreation facilities and appurtenances, vegetation planting and removal, underground public utilities, drainage devices, and erosion control and repair.

1 See 'Trail Segments Exhibit' dated February 10, 2006, on file in the Commission's office for final trail corridor and improved trail widths approved by the Executive Director.
Development that diminishes public access through any identified corridor shall be prohibited.

The lands identified in this restriction shall be maintained in accordance with the final maintenance and funding program approved by the Executive Director in accordance with Special Condition 4.

D. Streets, Roads and Public Parking Areas

Streets, roads and parking shall be provided as described on Tentative Tract 8817, dated February 14, 2003. All publicly and privately maintained streets, roads and public parking areas identified in Tentative Tract 8817 shall be for public street purposes including, but not limited to, pedestrian, bicycle and vehicular access [Exhibits C.1.D. & C.1.D.1]. Parking shall be provided as described in the applicant’s submittal and on Tentative Tract 8817 dated February 14, 2003, except that all streets, whether publicly or privately maintained, except proposed street segments AAA (Via Galicia), FFF (Via Bellas Artes), GGG (Via Velazquez), HHH (Via Murillo), WW (Via Cantabria), XX (portions of Via Asturias/Via Galicia), YY (portion of Via Asturias), and ZZ (Via Murcia) on PFM 8817, shall be open to the public for vehicular access and parking. All streets, roads and public parking areas shall be open for use by the general public 24 hours per day. Long term or permanent physical obstruction of streets, roads and public parking areas in Tract No. 8817 shall be prohibited. All public entry controls (e.g. gates, gate/guard houses, guards, signage, etc.) and restrictions on use by the general public (e.g. preferential parking districts, resident-only parking periods/permits, etc.) associated with any streets or parking areas shall be prohibited, except that signage, curb painting or permits to restrict public access to certain parking areas may be implemented on proposed street segments AAA (Via Galicia), FFF (Via Bellas Artes), GGG (Via Velazquez), HHH (Via Murillo), WW (Via Cantabria), XX (portions of Via Asturias/Via Galicia), YY (portion of Via Asturias), and ZZ (Via Murcia) depicted on PFM 8817.

The lands identified in this restriction shall be maintained in accordance with the final maintenance and funding program approved by the Executive Director in accordance with Special Condition 4.

E. PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS PERMIT, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, formal legal descriptions and graphic depictions of the portions of the subject property affected by this condition, as generally described above and shown on Exhibit 4 attached to the findings adopted on June 11, 2003 in support of approval of the original permit.

Italicized text identifies text added or otherwise modified pursuant to Special Condition No. 1.E or 6.
2. OFFER TO DEDICATE IN FEE OPEN SPACE FOR PARKS, PUBLIC ACCESS AND HABITAT ENHANCEMENT

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, and in order to implement the permittee's proposal, the permittee shall submit to the Executive Director, for review and approval, a proposed document(s) irrevocably offering the dedication of fee title over the areas identified below to the City of San Clemente, and/or other public agency or non-profit entity acceptable to the Executive Director, for parks, public access, passive recreational use, habitat enhancement, trail, public parking and street purposes. Once the documents irrevocably offering to dedicate the areas identified below are approved, and also PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit evidence that it has executed and recorded documents in a form and content acceptable to the Executive Director completing that offer to dedicate. The land shall be offered for dedication subject to the restrictions set forth in the special conditions of this permit, and the offer to dedicate shall reflect that fact. The offer shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The entirety of the following land shall be offered for dedication to the City, and/or other public agency or non-profit entity acceptable to the Executive Director pursuant to this condition: all of the land within Lots D, E, G, H, I, O, V, MM, and Public Streets Avenida Pico, Avenida Vista Hermosa, Avenida Costa Azul, Via Artemesia, and Via Socorro on PFM 8817, and those portions of Lot L on PFM 8817 that were identified as Lots I, J, M, O and the non-graded portion of Lot D on Amended Tentative Tract No. 8817 dated February 14, 2003.

B. Prior to the issuance by the City of San Clemente of the 200th certificate of occupancy of any residential unit approved by this permit, or 4 years from the date of issuance of this coastal development permit, whichever comes first, the permittee shall submit evidence that documents have been executed and recorded completing the transfer of fee title over the following portions of land identified in part A of this condition to the City of San Clemente and/or other public agency or non-profit entity acceptable to the Executive Director: Lots E, G, H, O and MM on PFM 8817. The remaining lots identified in part A of this condition (i.e. Lots D, I, V, portions of Lot L, and Public Streets Avenida Pico, Avenida Vista Hermosa, Avenida Costa Azul, Via Artemesia, and Via Socorro on PFM 8817) may be transferred to the City of San Clemente and/or other public agency or non-profit entity acceptable to the Executive Director at a later date within the 21 year period that the offer remains valid. If any offer expires without being accepted, such expiration shall not void the restrictions on use of the property imposed by the remaining special conditions of this permit and said restrictions shall remain in full force and effect.

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3. OFFER TO DEDICATE TRAIL EASEMENTS OVER THE AREA DESCRIBED IN CONDITION 1.C

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall execute and record document(s) in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for public pedestrian and, where noted, bicycle access and passive recreational use of the corridors described below, but excluding from the offer any portion of a trail within Lots E, G, H, O and MM on PFM 8817, that are required to be offered for dedication to the City of San Clemente and/or other public agency or non-profit entity acceptable to the Executive Director in accordance with Special Condition 2 of this permit. The recorded document(s) shall include legal descriptions of both the permittee’s entire parcel(s) and the easement area. The recorded document(s) shall also reflect that development in the offered area is restricted as set forth in the Special Conditions of this permit. The offer shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The lands to be offered for public trails and bikeways are generally depicted on Marblehead Coastal, Amended Tentative Tract No. 8817, Sheets 1 and 2, dated February 14, 2003 and Marblehead Coastal Amended Residential Site Plan #97-16, plot date February 14, 2003. Except as noted on the plans identified above, all pedestrian trails shall have a minimum 10 foot wide corridor with a minimum 8 foot wide improved trail. Widths of bicycle corridors and trails shall be as described on Tentative Tract 8817.

The lands identified in this dedication shall be maintained in accordance with the final maintenance and funding program approved by the Executive Director in accordance with Special Condition 4.

4. ACCESS AND HABITAT MANAGEMENT AND MAINTENANCE

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall provide for the review and approval by the Executive Director a management and maintenance program for proposed parks, trails, open spaces, public facilities, associated structures and appurtenances for the foregoing and water quality management structures and associated appurtenances. The final program, which may be incorporated in whole or in part in the final habitat management plan, shall include the following:

1. IDENTIFY ALL ENTITIES RESPONSIBLE FOR OWNERSHIP, MANAGEMENT AND MAINTENANCE. In general, the owner of the land shall maintain it until such time as any easement required to be offered by this permit is accepted or a fee dedication required by this permit is complete, from which point on the easement-holder or the new holder of fee
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Title shall maintain it. Where an easement or a fee dedication is accepted by an entity in accordance with the terms and conditions of this permit, the holder of the easement or fee title shall be responsible for management and maintenance of the facilities within the easement or land area unless the arrangements between the landowner and the fee or easement holder dictate that the landowner shall retain all or part of said management and maintenance responsibility. All management and maintenance shall occur in accordance with the approved management and maintenance program.

2. IDENTIFICATION OF MANAGEMENT AND MAINTENANCE ACTIVITIES AND ASSOCIATED FUNDING PROGRAM. The management and maintenance program shall include identification of management and maintenance activities and funding program that will provide for the actual cost of:

i. maintenance and periodic repair and replacement of park facilities, trails and associated appurtenances including, but not limited to, landscaping, restrooms, trail routes and surfaces, fences, benches and other facilities; and appropriate domestic pet controls and services and,

ii. on-going habitat protection, restoration and maintenance, including regular exotic plant removal, which shall also include on-site supervision of trail and habitat areas by qualified personnel, operation of interpretive signs and displays, funding of public outreach programs, including resident education and docent program;

iii. maintenance of drainage systems, water quality management structures and other devices required to protect on-site habitat and ocean waters.

3. LEGAL AUTHORITY. The program shall demonstrate the legal ability of the assigned entities to undertake the development and maintain said development in accordance with the requirements of this permit.

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

5. COVENANTS, CONDITIONS, AND RESTRICTIONS (CC&R'S), AND FINAL TRACT MAPS.

A. Consistent with the applicant's proposal, the applicant shall establish covenants, conditions and restrictions (CC&R's), or an equivalent thereof, for the proposed residential lots and proposed regional commercial lots to address
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ownership and management of open space lots not offered for dedication to the City of San Clemente pursuant to Special Condition 2. The CC&R's shall reflect the requirements of this coastal development permit, including but not limited to the limitations on the development of the open space lots and the public access requirements thereto as proposed by the applicant and as conditioned by this permit.

B. Subject to the review and approval of the Executive Director, where feasible, the applicant shall consolidate proposed open space lots that are contiguous with one another and that are to be held by a common owner.

C. The CC&R's for the 313 proposed residential lots and all open space lots within the coastal zone not given to a public entity pursuant to Special Condition 2 above, except Lots NN and OO depicted on PFM 8817, shall indicate that: 1) all of those open space lots are to be held in common ownership of all residential lots; 2) those lots shall not be sold individually; 3) those lots shall be maintained by a common entity (e.g. master homeowner's association) in accordance with the special conditions of this permit.

D. The CC&R's (or equivalent) for the regional commercial center and Lots NN and OO depicted on PFM 8817, shall indicate that: 1) open space lots NN and OO shall be held in common ownership of all of the commercial lots; 2) the open space lots shall not be sold individually; 3) the open space lots shall be maintained by a common entity (e.g. the master residential homeowner's association identified in subpart A above or an equivalent commercial landowner's association) in accordance with the special conditions of this permit.

E. Consistent with the applicant's proposal, as soon as a homeowner's association or similar entity comprised of the individual owners of the 313 proposed residential lots is created, the applicant shall transfer title to the lots described in paragraph C to that entity. Consistent with the applicant's proposal, as soon as a commercial landowners' association or similar entity comprised of the individual owners of the commercial lots is created, the applicant shall transfer title to the lots described in paragraph D to that entity.

F. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, and prior to recordation of any CC&R's, parcel-maps or tract maps associated with the approved project, said CC & R's and Tract and parcel maps shall be submitted to the Executive Director for review and approval. The Executive Director's review shall be for the purpose of insuring compliance with the standard and special conditions of this coastal development permit. The restriction on use of the land cited within the special conditions of this permit shall be identified on the Tract Maps, where appropriate, and placed in the CC & R's. Any CC & R's, parcel map conditions or notes, or tract map provisions

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which the Executive Director determines are not consistent with any of the
Conditions of this permit shall be modified to be consistent before recordation.

G. Simultaneous with the recording of the final tract map(s) approved by the
Executive Director, the permittee shall record the covenants, conditions and
restrictions approved by the Executive Director, against the property.

6. RENUMBERING AND TRACT MAP DESIGNATIONS

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT and
accompanying relevant revised, final plans submitted to the Executive Director for
review and approval, the permittee shall prepare a comparison of the proposed
final lot letters and numbers, with the lot letters and numbers shown on Tentative
Tract 8817 dated February 14, 2003, and described in the Commission’s actions.
Numerical or letter designations of all lots necessary to conform to the
Commission's Conditions shall be provided for the review and approval of the
Executive Director. Additional lots created in order to conform to the Commission’s
Conditions shall be shown on the revised tentative tract maps subject to the review
and approval of the Executive Director. The language of these special conditions
shall be modified as necessary so that these conditions, as well as all recorded
documents, shall reflect the final lots numbers, as approved by the Executive
Director. An amendment to this permit to renumber lots and their configuration and
locations shall be necessary if the Executive Director determines an amendment is
required.

7. CONSTRUCTION/DEVELOPMENT PHASING

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the
applicant shall submit a revised, final construction phasing plan for review and
approval by the Executive Director which shall conform with the following:

Prior to or concurrent with opening proposed Avenida Vista Hermosa for
vehicular use by the public, the following roads, parking and trails shall be
operational and open to the public: 1) proposed public road Avenida Costa Azul
depicted on PFM 8817, and the Park Access Road (Lot O depicted on PFM
8817) including accompanying public parking areas (street parking and parking
lots); and 2) trails identified on the exhibit titled “First Phase Habitat, Trail and
Park Phasing Plan” dated April 2, 2003 submitted by the applicant and generally
described as a continuous trail along the western side of Marblehead canyon
linking Avenida Vista Hermosa to El Camino Real and with linkage to
continuous bluff top, bluff edge, and mid-bluff trails that connect the proposed
public park adjacent to Avenida Pico to the western side of the Western
Canyon. Subject to the review and approval of the Executive Director, where
construction of development authorized by this permit follows opening of
proposed Avenida Vista Hermosa and such construction would necessitate

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significantly reconstruct certain segments of the above trails, roads, and parking areas. Those trail segments, roads, and parking areas identified may be constructed with interim-level improvements (which shall suffice to meet the requirement at the beginning of this paragraph that they be operational and open to the public) until the required disturbance is completed, and the final trail is constructed to the standards identified in the final public access and recreation improvements plan(s) approved by the Executive Director. Subject to the review and approval of the Executive Director, trail segments constructed with interim-level improvements may be temporarily closed to facilitate construction of the development approved by this permit, provided that direct alternative bypasses are made available.

Prior to the issuance by the City of San Clemente of the 50th certificate of occupancy of any residential unit approved by this permit or the occupation of the 50,001st square foot of commercial structure approved by this permit, the following shall occur: 1) at least fifty percent (50%) of the lands proposed for habitat restoration (generally those lands identified on the exhibit titled "First Phase Habitat, Trail and Park Phasing Plan" dated April 2, 2003 submitted by the applicant and generally located along the bluffs and in the canyons nearest El Camino Real) shall have been planted or seeded in accordance with the final Habitat Management Plan, however, such planting and seeding shall not take place until appropriate exotic removal and control has taken place. The remainder of the lands to be restored shall occur as soon as possible thereafter in accordance with the final habitat management plan approved by the Executive Director; 2) the proposed park area near the bluffs along El Camino Real at the termination of the Park Access Road (Lot O depicted on PFM 8817) shall be constructed with interim level improvements and open to the public; and 3) Except as identified below in this condition, the proposed park nearest Avenida Pico (Lot E depicted on PFM 8817) including facilities to support public use of the park (e.g., parking, roads, etc.) shall be constructed in accordance with the final road improvement, public access and recreation facilities and signage plans approved by the Executive Director and open to the public. In order to accommodate construction disturbance associated with the widening of Avenida Pico approved by this permit, the access from Avenida Pico to the proposed park (Lot E depicted on PFM 8817) may be constructed with interim-level improvements until the widening is completed. When widening of Avenida Pico is completed the park access shall be constructed to the standards identified in the final public access and recreation improvements plans approved by the Executive Director. Plans for any interim level improvements shall be submitted for review and approval by the Executive Director prior to issuance of the coastal development permit.

All trails shall be fully improved in accordance with the final public access and recreation facilities plans approved by the Executive Director in accordance with the completion date identified in the applicant's Trail Phasing Plan dated
February 12, 2003, except where the conditions of this permit mandate completion of such facilities upon a different time frame.

Notwithstanding the phasing identified above, prior to the occupation of any 200th residential unit approved by this permit or no later than 4 years from the date of issuance of this coastal development permit, whichever comes first, all trails and associated appurtenances, all parks and associated facilities and appurtenances, all public roads, and the initial phase of restoration on all lands proposed for habitat restoration shall be completed in accordance with the final public access and recreation improvements plans and final habitat management plan approved by the Executive Director.

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

8. GENERAL CONSTRUCTION RESPONSIBILITIES

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for the review and approval of the Executive Director, a final construction-phase erosion, sediment and polluted runoff control plan that conforms with the requirements of this permit and has been approved by the City of San Clemente. The erosion, sediment and polluted runoff control plan shall include written descriptions and site plans, as necessary, to describe the non-structural and structural erosion, sediment and polluted runoff controls to be used consistent with the requirements of this permit. 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. Except for minor adjustments in the location of temporary erosion control measures necessary to protect trails, parks and habitat resources, no changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required. In addition, the construction-phase erosion, sediment, and polluted runoff control plan shall include the following requirements:

1. Erosion, sedimentation and polluted runoff shall be minimized to the maximum extent practicable.
2. Construction materials, chemicals, debris, and sediment shall be properly contained and secured on site to prevent the unintended transport of materials, chemicals, debris, and sediment into wetlands, habitat areas, and coastal waters by wind, rain, runoff, or tracking;

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3. Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials and to contain sediment or contaminants associated with construction activity shall be implemented prior to the on-set of construction. BMPs selected shall be maintained in a functional condition throughout the duration of the project. A comprehensive education program designed to advise and educate construction personnel of the applicable Construction Best Management Practices enumerated in this Special Condition 8.A.3. A pre-construction meeting shall be held for all personnel to review procedural and BMP guidelines. BMPs that shall be implemented include, but are not limited to:

a. Erosion & Sediment Source Control.
   i. Construction shall be sequenced to install sediment-capturing devices first, followed by runoff control measures and runoff conveyances. Land clearing activities shall only commence after the minimization and capture elements are in place;
   ii. Clearing and grading activities shall be timed to avoid the rainy season (October 15th to April 15th), where feasible;
   iii. Grading shall be phased to minimize the area of bare soil exposed at one time;
   iv. Only areas essential for construction shall be cleared;
   v. Bare soils shall be stabilized with nonvegetative BMPs within five days of clearing or inactivity in construction. If seeding or another vegetative erosion control method is used, such vegetation should become established within two weeks. Applicable stabilization BMPs may include:
      • Mulching bare soil surfaces with blankets of straw, wood chips, shredded bark or other plant residue, gravel, or synthetic material;
      • Establishing native perennial vegetative cover with seed in disturbed areas to minimize erosion;
      • Seeding with rapid-growing native annual plants can be considered for temporary stabilization of disturbed soils that will not be brought to final grade within 30 days;
      • Sod, instead of seed, for surface stabilization, in areas with steep slopes and unsuitable for seeding, such as flowways and around inlets.
   vi. Construction entrances shall be properly graded and stabilized to prevent runoff and tracking of sediments from construction site. The entrances shall be stabilized immediately after grading and frequently maintained to prevent erosion and control dust.
   vii. In areas prone to high winds, wind erosion controls shall be implemented to limit the movement of dust from disturbed soil surfaces. Wind erosion controls may include wind barriers that block air currents and are effective in controlling blowing soil. Materials for wind barriers may include solid board fences, snow fences, and bales.

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of hay. Provided that runoff is controlled, water may be sprinkled on soils for dust control.

b. Runoff Control and Conveyance
   i. Runoff above disturbed slopes shall be intercepted and conveyed to a permanent channels or stormdrains by using earth dikes, perimeter dikes or swales, or diversions. Use check dams where appropriate;
   ii. Benches, terraces, or ditches shall be constructed at regular intervals to intercept runoff on long or steep slopes. Biodegradable fiber rolls are recommended along the face of exposed and erodible slopes to shorten slope length;
   iii. Provide protection for runoff conveyance outlets by reducing flow velocity and dissipating flow energy;

c. Sediment-Capturing Devices
   i. Install stormdrain inlet protection that traps sediment before it enters the storm sewer system. Such barriers may consist of filter fabric, gravel, or sand bags. The use of straw bales is discouraged for this purpose;
   ii. Install sediment traps/basins at outlets of diversions, channels, slope drains, or other runoff conveyances that discharge sediment-laden water. Sediment traps are usually used for drainage areas no greater than 5 acres, while the basins are appropriate for larger areas. Sediment traps/basins shall be cleaned out when 50% full (by volume). Temporary detention basin(s) shall be designed to capture runoff generated in a 10-year storm event for the area to be graded, to the extent feasible and practicable, however in no event shall such basins be designed to capture less than the runoff generated in a 2-year, 24 hour storm event with a 40 hour draw down time;
   iii. Use silt fences and/or vegetated filter strips to trap sediment contained in sheet flow. The maximum drainage area to the fence shall be 0.5 acre or less per 100 feet of fence. Silt fences shall not be used on slopes where flow is concentrated. Silt fences shall be inspected regularly and sediment removed when it reaches 1/3 the fence height. Vegetated filter strips shall have relatively flat slopes and be vegetated with native erosion-resistant species.

d. Chemical Control
   i. Properly store, handle, apply, and dispose of pesticides, petroleum products, and other construction materials;
   ii. All construction materials with the potential to emanate harmful chemicals shall be stored securely by enclosing the material on all sides and not in contact with the bare ground surface;
   iii. Establish fuel and vehicle maintenance staging areas located away from all upland habitat, wetlands and drainage courses, and design these areas to control runoff. Equipment shall be properly maintained and stream crossings (only in locations previously approved) shall be
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properly installed in order to reduce pollution of water by these sources;
iv. Develop and implement spill prevention and control measures.
v. Provide sanitary facilities for construction workers.
vi. Maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into surface waters or sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50 feet away from a storm drain, open ditch or surface water. Where feasible, recycle washout by pumping backing into mixers for reuse. If not feasible, let water percolate through soil and dispose of settled, hardened concrete with trash.
vii. Provide adequate disposal facilities for solid waste, including excess asphalt, produced during construction.
viii. Develop and implement nutrient management measures. Properly time applications, and work fertilizers and liming materials into the soil to depths of 4 to 6 inches. Reduce the amount of nutrients applied by conducting soil tests to determine site nutrient needs.

e. Debris Control
i. Disposal of debris and excess material. Debris and excess material shall be disposed or recycled at a legal disposal/recycling site. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is required. No debris or excess material shall be dumped within any canyon, placed on the beach, or on any protected habitat or restoration areas without a coastal development permit.
ii. Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters.
iii. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction;
iv. Lunchtime trash shall be properly recycled or disposed of by the end of every construction day.

B. Grading and construction shall fully comply with the provisions of the final habitat management plan approved by the Executive Director including, but not limited to, the recommendations relative to the preservation of groundwater flow characteristics and wetlands hydrology contained within the document titled Geotechnical Review of the Proposed Grading Plan for Marblehead Coastal, Amended Tentative Tract 8817, City of San Clemente, Orange County, dated October 19, 2001, and prepared by Lawson & Associates of San Clemente (Project No. 010009-01).

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C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for the review and approval of the Executive Director, final engineered grading plans for all of the proposed development which shall incorporate the requirements of these special conditions. The plans shall have been reviewed and approved by the project geologist, the City engineer and the City geologist. Grading plans shall substantially conform to the preliminary plans shown on Tentative Tract Map No 8817 dated February 14, 2003, except as required to be modified by these special conditions. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

9. CONSTRUCTION STAGING AREA AND FENCING

A. All construction plans and specifications for the project shall indicate that impacts to wetlands and environmentally sensitive habitats shall be avoided and that the California Coastal Commission has not authorized any impact to wetlands or other environmentally sensitive habitat. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit a final construction staging and fencing plan for the review and approval of the Executive Director which indicates that the construction in the construction zone, construction staging area(s) and construction corridor(s) shall avoid impacts to wetlands and other sensitive habitat consistent with this approval. The plan shall include the following requirements and elements:

1. Wetlands and any other environmentally sensitive habitats shall not be affected in any way, except as specifically authorized in this permit.

2. Prior to commencement of construction, temporary barriers shall be placed at the limits of grading adjacent to ESHA. The barriers shall be a minimum 8 feet tall and one-inch thick in those areas adjacent to occupied gnatcatcher habitat. Solid physical barriers shall be used at the limits of grading adjacent to all other ESHA. Barriers and other work area demarcations shall be inspected by a qualified biologist to assure that such barriers and/or demarcations are installed consistent with the requirements of this permit. All temporary barriers, staking, fencing shall be removed upon completion of construction.

3. No grading, stockpiling or earth moving with heavy equipment shall occur within ESHA, wetlands or their designated buffers, except as noted in Special Condition 17 and the final habitat management plan approved by the Executive Director.

4. No construction materials, debris, or waste shall be placed or stored where it may enter sensitive upland habitat or wetlands, storm drain, receiving waters, or be subject to wind erosion and dispersion;

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5. Except for the allowances provided in Special Condition 17, no construction equipment shall be stored within any ESHA, wetlands or their buffers.

6. The plan shall demonstrate that:
   a. Construction equipment, materials or activity shall not occur outside the staging area and construction zone and corridors identified on the site plan required by this condition; and
   b. Construction equipment, materials, or activity shall not be placed in any location which would result in impacts to wetlands or other sensitive habitat;

7. The plan shall include, at a minimum, the following components:
   a. A site plan that depicts:
      i. limits of the staging area(s)
      ii. construction corridor(s)
      iii. construction site
      iv. location of construction fencing and temporary job trailers with respect to existing wetlands and sensitive habitat
      v. Compliance with 'General Construction Responsibilities' Special Condition of this coastal development permit.

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

10. **FINAL HABITAT MANAGEMENT PLAN**

A. The permittee shall implement and comply with the habitat protection, enhancement and loss mitigation measures in the final habitat preservation and mitigation plan (i.e. final habitat management plan) approved by the Executive Director, the primary elements of which are described within the documents titled Marblehead Coastal Project Habitat Management Plan dated November 28, 2001, as amended (most recent amendment is dated February 14, 2003), and Protection and Enhancement Plan for Upland ESHA dated February 2003 with Addendum dated February 13, 2003, which implements the preservation or creation of the following habitat within the coastal zone at the project site:

- preserve 10.26 acres of existing CSS habitat, create 63.85 to 64.22 acres of CSS habitat on-site (no further disturbance), plus 1.19 to 1.23 acres of CSS habitat on-site that may be subject to periodic disturbance for fuel management and utility maintenance, plus 1.38 to 1.68 acres of CSS off-site; preserve 0.62 acres of native perennial grassland and create 4.3 acres of native perennial grassland (of which 3.26 to 3.73 acres may be subject to periodic disturbance for fuel modification and utility maintenance); preserve 5.21 acres of wetland habitat; create 0.2 acres of alkali meadow wetlands within the canyons; and create 1.72 acres of wetland and 2.90 acres of wetland/mixed riparian scrub within the proposed detention basins; and which shall be modified as described.

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below and elsewhere within these special conditions.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the
permittee shall submit a revised, final habitat management plan for review and
approval by the Executive Director. The final habitat management plan shall be
developed in consultation with the California Department of Fish & Game and
U.S. Fish & Wildlife Service. The final habitat management plan shall
substantially conform with the Habitat Management Plan dated November 28,
2001, as amended, and the Protection and Enhancement Plan for Upland
ESHA dated February 2003 with Addendum dated February 13, 2003, except
that it shall be modified as follows:

1. Wetlands shall have 100-ft wide buffers (horizontally), except at the "slot"
canyon (generally within Lot D and portion of Lot L depicted on PFM 8817),
where a minimum 50-foot wide buffer shall be required. Except for the
proposed bridge pilings for proposed Avenida Vista Hermosa, the installation
of utilities near the mouth of Marblehead Canyon, and except for habitat
restoration and maintenance and construction and maintenance of public
trails, there shall be no development, including grading or fuel modification,
in the wetland buffers. However, prior to construction of the utilities, the
permittee shall submit a hydrologic analysis for review and approval of the
Executive Director which demonstrates that the construction of the utilities in
the areas identified as 8 and 9 on Exhibit 19c to the findings adopted on
June 11, 2003 in support of the original permit shall have no negative effects
on wetland hydrology.

2. Upland ESHA shall have 100-foot wide (horizontally) buffers, where feasible.
The minimum buffer width shall be 50 feet wide (horizontally). There shall
be no development, including grading, within 50 feet of ESHA boundaries
and no grading within 50 feet of coastal bluff scrub, Blochman’s dudleya
populations, native grasslands and those stands of CSS within gnatcatcher
use areas, with these exceptions: a) One-time, brief (less than 30 days)
grading to construct the western-most detention basin may take place within
50 feet of CSS; b) One-time, brief (less than 30 days) grading to construct
the eastern detention basin; c) Grading and subsequent construction of
approved development within 50 feet of ESHA adjacent to the slot canyon
(proposed Lot C of Amended Tentative Tract No. 8817 which is a portion of
Lot L depicted on PFM 8817); d) one-time trenching and placement of
utilities within 50 feet of ESHA located at the mouth of Marblehead canyon;
e) Grading adjacent to the gnatcatcher use area next to the existing central
soil stockpile (i.e. in the vicinity of Lots 90 to 106 depicted on PFM 8817)
may take place within 50 feet of CSS; f) Grading along the upper edges of
the western canyon; and along the western edge of Drainage B, g) Brief
trenching to install storm drain and sewer along the east side of the western
detention basin, h) brief, one-time trenching for the Installation of subsurface
sewer and storm drain lines within a maximum 20 foot wide disturbance area

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3. In order to preserve habitat connectivity including protecting the California gnatcatcher, the permittee shall eliminate proposed turf within proposed Lot I of proposed Amended Tentative Tract No. 8817 which is a portion of Lot L depicted on PFM 8817. Vegetation within Lot I shall consist of plants native to coastal Orange County and appropriate to the natural habitat type. Lot I shall be incorporated into the final Habitat Management Plan and shall be managed consistent with the provisions of the plan. In addition to appropriate vegetation, Lot I shall include a recreational trail along the bluff edge and vista points including seating and interpretive signs. Only wildlife resistant trash receptacles shall be utilized within Lot I.

4. All turf within the 50 foot ESHA buffer identified on Exhibit 19 attached to the findings adopted on June 11, 2003 in support of approval of the original permit shall be eliminated. These areas shall be planted with native vegetation appropriate to the habitat type.

5. The proposed trail segment that passes through the slot canyon (Lot C on proposed Amended Tentative Tract No. 8817 which is a portion of Lot L depicted on PFM 8817) shall be routed to avoid ESHA. The revised route shall maintain an on-site connection between the easterly detention basin (Lot P depicted on PFM 8817) and the park (Lot E depicted on PFM 8817) by following the perimeter of proposed Amended Tentative Tract No. 8817 Lots C and D [Lot D and portion of Lot L depicted on PFM 8817]. The trail shall be located at the outer perimeter of the ESHA buffer, where feasible.

6. A trail and pedestrian bridge that crosses ESHA and its buffer and that provides a public access connection between Amended Tentative Tract No. 8817 Lot F and Lot J [Lot E and portion of Lot L depicted on PFM 8817] shall be allowable.

7. Trails passing through ESHA, buffers and ESHA connecting areas shall be limited to pedestrian and wheelchair use (i.e. no bicycles or equivalent).

8. Grading Adjacent to CSS-ESHA: There shall be no grading within 100 feet of native scrub habitats that occur within ESHA boundaries during the gnatcatcher breeding season (considered to be from February 15 through August 31), if gnatcatchers are present. During the non-breeding season (September 1 through February 14), ESHA defined by historical gnatcatcher use shall be shielded from the sight and sound of construction activities taking place within 50 feet of the ESHA using the techniques proposed by the applicant in the documents identified above.

Grading Associated with Non-ESHA CSS: Approved clearing of non-ESHA
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CSS shall occur outside of the gnatcatcher breeding season. Subject to the review and approval of the Executive Director, clearing of CSS more than 100 feet from Environmentally Sensitive Habitat Area shown on Exhibit 19 of the findings adopted on June 11, 2003 for the original permit may occur during the gnatcatcher breeding season, if the contingency measures given in subsection 9 of this condition are implemented to minimize impacts to gnatcatchers.

9. The permittee shall staff a qualified monitoring biologist on-site during all CSS clearing and any other project-related work adjacent to CSS to be avoided. The biologist must be knowledgeable of gnatcatcher biology and ecology. The permittee shall ensure that the biologist shall perform the following duties:
   a. Prior to and during the clearing of any CSS or other suitable gnatcatcher habitats outside the gnatcatcher breeding season, the biologist shall locate any individual gnatcatchers on-site and direct clearing to begin in an area away from birds. In addition, the biologist shall walk ahead of clearing equipment to flush birds towards areas of habitat that will be avoided. It shall be the responsibility of the permittee to assure that gnatcatchers shall not be directly injured or killed by the clearing of CSS.
   b. If clearing of CSS within 100 feet of the Environmentally Sensitive Habitat Area shown on Exhibit 19 of the findings of approval adopted on June 11, 2003 for the original permit is necessary and approved by the Executive Director during the gnatcatcher breeding season, in addition to the above, the biologist shall locate and monitor gnatcatchers and/or any gnatcatcher nests within clearing areas by conducting a minimum of three surveys, on separate days, after the initiation of the nesting season to determine the presence of gnatcatchers, nest building activities, egg incubation activities, or brood rearing activities. These surveys shall be conducted within the week prior to the initiation of clearing. One survey shall be conducted the day immediately prior to the initiation of clearing. If gnatcatchers are found, but no nests, the biologist shall flush the gnatcatchers from the clearing area as described above. If nesting birds are found, a nest monitoring program approved by the Executive Director in consultation with the Resources Agencies shall be initiated and clearing shall be postponed within and adjacent to the foraging area used by the pair during the nesting cycle, until the nest is determined either a success or failure by the Executive Director in consultation with the Resources Agencies and the project biologist. Nest success/failure shall be established by regular and frequent trips to the site, on an as-needed basis, as determined by the biologist and approved by the Executive Director in consultation with the Resources Agencies. Further work activities within and adjacent to the foraging area shall not be initiated until nestlings have fledged or the nest has been determined a failure, as approved by the Executive Director in consultation with the Resources Agencies. The biologist shall then flush any adult and/or fledgling

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gnatcatchers from the clearing area as described above.

C. If project construction within 100 feet of CSS to be avoided is necessary and approved by the Executive Director during gnatcatcher breeding season, the biologist shall locate and monitor gnatcatchers (including nests) within 100 feet of work. The biologist shall determine whether bird activity within this area is being substantially disrupted by implementing a monitoring plan developed in consultation with the Resources Agencies and approved by the Executive Director. If the biologist determines that gnatcatcher activity is being substantially disrupted, the permittee shall stop work and coordinate with the Executive Director in consultation with the Resources Agencies to minimize and mitigate noise to 60 dBA adjacent to habitat occupied by gnatcatchers through the use of sound walls and/or other measures designed in consultation with the Resources Agencies and approved by the Executive Director.

D. Prior to initiating clearing and/or project construction during the gnatcatcher breeding season, the biological monitor shall meet on-site with the construction manager and/or other individual(s) with oversight and management responsibility for the day-to-day activities on the construction site to discuss implementation of the relevant avoidance/minimization/mitigation measures for gnatcatcher. The biologist shall meet as needed with the construction manager (e.g., when new crews are employed) to discuss implementation of these measures.

E. The permittee shall submit weekly reports (including photographs of impact areas) to the Executive Director and the Wildlife Agencies during initial clearing of CSS and/or project construction within 100 feet of avoided CSS during the gnatcatcher breeding season. The weekly reports shall document that authorized CSS impacts were not exceeded, work did not occur within the 100-foot setback during the gnatcatcher breeding season except as approved by the Executive Director, and general compliance with all conditions. The reports shall also outline the duration of gnatcatcher monitoring, the location of construction activities, the type of construction which occurred, and equipment used. These reports shall specify numbers, locations, and sex of gnatcatchers (if present), observed gnatcatcher behavior (especially in relation to construction activities), and remedial measures employed to avoid, minimize, and mitigate impacts to gnatcatchers. Raw field notes shall be available upon request by the Executive Director.

10. The 4.3 acres of native perennial grassland proposed to be created by the applicant shall not count toward mitigation of impacts to native grassland that occurred during emergency bluff grading. In addition to the 4.3 acres of native perennial grassland proposed to be created by the applicant, the applicant shall mitigate the impact to 2.5 acres of native perennial grassland (a.k.a. needlegrass grassland) that occurred during emergency bluff grading in 1990 by restoring/creating native perennial grassland at biologically suitable site(s) within the habitat management plan area that will not be

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subject to fuel modification, in quantities consistent with biological restoration goals (but not less than 5 acres), subject to the review and approval of the Executive Director.

11. Trails, parks, turf areas, sidewalks, and roadways shall be separated from adjacent ESHA and buffer areas with fences and barrier plantings designed to define the limits of the use area but that are easily passable by coyotes and smaller mammals. Those portions of residential lots immediately adjacent to ESHA and buffer areas shall be separated from those areas with fencing or walls adequate to prevent the passage of people and domestic pets.

12. Any fences around the western and central detention basin shall be easily passable by coyotes and smaller mammals. The area of the western detention basin shall not be accessible from the nearby residential area by residents and the general public. Fencing and barrier plantings shall be used, as appropriate, to control entry to habitat areas and detention basins by residents and the general public.

13. Only locally native species (no cultivars) obtained within coastal Orange County as available from as close to the project area as possible shall be used within the habitat restoration area. The source and proof of local nativeness of all plant material and seed shall be provided in the plan;

14. Coastal bluff scrub restoration (CBS) shall be designed to preserve existing Blochman's dudleya habitat and shall be designed to allow expansion of the dudleya occupied habitat by natural recruitment. Restoration shall include enhancing Blochman's dudleya populations wherever there is appropriate physical habitat.

15. All CSS and CBS restoration sites shall be prepared for planting by decomping the top soil in a way that mimics natural CSS top soil to the maximum extent practicable and in a manner consistent with preservation of Blochman's dudleya. Topsoil and plant materials salvaged from the CSS areas to be impacted shall be transplanted to, and/or used as a seed/cutting source for, the CSS restoration areas to the maximum extent practicable. All planting shall be installed in a manner that mimics natural plant distribution, and not in rows.

16. Only irrigation that is temporary and associated with restoration shall be allowed within ESHA boundaries, within ESHA buffers, and within open space and habitat intended to promote connectivity between Marblehead canyon and the western canyon.

17. Restoration activities in the open space areas adjacent to the coastal bluff and in the western canyons shall be initiated as soon as possible and planting shall take place prior to the construction of residences near this area, except where this schedule is not compatible with best restoration practices (e.g., optimal weed control). Restoration (including preparatory activities such as weed control) shall begin no later than the initiation of grading activities and shall proceed contemporaneously with project construction.

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18. The permittee shall fence the limits of the construction corridor to demarcate the boundary of the habitat that is authorized to be impacted by this coastal development permit and the habitat which shall be avoided. Fencing shall be designed to prevent additional CSS impact and spread of silt from the construction zone into adjacent CSS and other habitats and shall allow the continued circulation of small mammals, including coyote, through the site.

19. The habitat management plan shall be modified to eliminate reference to off-site mitigation as an automatically acceptable contingency measure. Contingency mitigation shall be determined by the Executive Director, or the Commission if an amendment or new permit is deemed necessary.

20. The habitat management plan shall be modified to eliminate the exemption for replanting due to natural hazards. The necessity to replant as a result of damage to restored areas due to natural hazards shall be determined by the Executive Director.

21. The permittee shall submit a final report prepared by the biological monitor to the Executive Director, for review and approval, within 60 days of project completion that includes: as-built construction drawings with an overlay of CSS and wetlands that were impacted and avoided, photographs of CSS and wetland areas avoided, and other relevant summary information documenting that authorized CSS and wetlands impacts were not exceeded and general compliance with all conditions of this permit.

22. The permittee shall install protective fencing or barriers along any interface with developed areas and/or use other measures, designed in consultation with the Resources Agencies and approved by the Executive Director, to deter human and pet entrance into all avoided/restored CSS and wetland areas. Plans for fencing and/or other preventative measures shall be submitted to the Executive Director for review approval prior to the issuance of the coastal development permit in accordance with the 'Construction Staging Area and Fencing' special condition of this permit.

23. The permittee shall implement a perpetual management, maintenance and monitoring plan for the habitat management plan area. The plan shall include a description of the perpetual management, maintenance and monitoring actions. The permittee shall also establish a non-wasting endowment in favor of a public agency, non-profit organization, or other entity approved by the Executive Director for an amount determined in consultation with the Resources Agencies and approved by the Executive Director based on a Property Analysis Record (PAR) (Center for Natural Lands Management ©1998) to secure the ongoing funding for the perpetual management, maintenance and monitoring of the habitat management plan area by an agency, non-profit organization, or other entity approved by the Executive Director. The non-wasting endowment shall be no less than the proposed $1,000,000 (one million dollars). Until a qualified management entity is identified, the permittee shall be responsible for such management.

24. The permittee shall develop a resident education program. The program shall advise residents of the potential impacts to sensitive plant and animal

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species and the potential penalties for taking (i.e. disturbing or harming) such species. The program shall include, but not be limited to, information pamphlets and signage included as part of the interpretive program within the habitat management plan area. Informational pamphlets shall be distributed to all residences on a regular basis (e.g. once a year). At a minimum, the program shall include the following topics: occurrence of the listed and sensitive species in the area, their general ecology, sensitivity of the species to human activities, impacts from free-roaming pets (particularly domestic and feral cats), legal protection afforded these species, penalties for violations of Federal and State laws, reporting requirements, the importance of the presence of large predators such as the coyote in maintaining the habitat, and project features designed to reduce the impacts to these species and promote the species continued successful occupation of the preserved areas.

25. The permittee shall ensure that development landscaping adjacent to the habitat management plan area shall be consistent with the ‘Landscaping Requirements’ special condition of this permit which prohibits the use of exotic plant species that may be invasive to native habitats anywhere within the development. The final habitat management plan shall incorporate the lists of approved and prohibited plant species required to be submitted pursuant to the ‘Landscaping Requirements’ special condition of this permit.

26. The permittee shall ensure that development lighting adjacent to the habitat management plan area shall be directed away from and/or shielded so as not to illuminate native habitats.

27. The proposed restoration monitoring and maintenance shall occur for the proposed five (5) year period. Annual mitigation maintenance and monitoring reports shall be submitted to the Executive Director no later than one month following the close of the reporting year. The permittee or successor in interest shall comply with the proposed Habitat Management Plan performance criteria. Monitoring shall include botanical as well as animal resources such as gnatcatcher usage. Gnatcatcher monitoring shall document nesting, breeding territory size and location, and fledging success. Performance criteria shall include botanical goals and wildlife usage goals. If at the end of the proposed 5 year period the performance criteria have not been met, the permittee or successor in interest shall provide an analysis to the Executive Director of reasons the plan did not succeed and the measures to be taken to ensure success. If at the end of the proposed 5 year period the performance criteria have not been met, the permittee or successor in interest shall seek an amendment for measures to ensure the success of the habitat restoration plan. Restoration monitoring and maintenance shall be extended in accordance with the requirements of any amendment. This requirement does not limit the permittee’s responsibility for post-restoration, perpetual monitoring and maintenance required in these special conditions.

28. Restoration activities, such as weed control and removal and planting and
seeding shall not take place within 100 feet of gnatcatcher territory where
gnatcatchers are present unless the permittee provides a biological monitor
who will ensure no impacts to gnatcatcher occur and the permittee must
obtain prior written approval from the Resources Agencies. Prior to initiation
of such activities, the permittee shall submit written evidence of Resources
Agency approval for the review and approval of the Executive Director.

29. Appropriate controls and services that prohibit the entry of domesticated
animals into habitat restoration areas shall be identified and implemented.
In addition, appropriate controls and services shall be identified and
implemented for areas where domestic animals may be permitted, such as
trails.

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

11. LANDSCAPE REQUIREMENTS

A. All areas disturbed and/or denuded by the development shall be re-vegetated
and maintained to protect habitat and to prevent erosion into habitat areas,
wetlands, and coastal waters. Such re-vegetation shall occur in accordance with
the requirements of the special conditions of this permit. Furthermore,
undisturbed areas shall be re-vegetated in accordance with the final Habitat
Management Plan approved by the Executive Director. All required plantings
shall be maintained in good growing condition throughout the life of the project,
and whenever necessary, shall be replaced with new plant materials that
conform to the requirements of the special conditions of this permit.

B. Except for landscaping within 1) the non-open space lots in the regional
commercial development, 2) the private residential lots within PFM 8817, 3)
within the right-of-way of Avenida Pico and Avenida Vista Hermosa, and for turf
authorized by this permit within the park areas, all landscaping (including
temporary erosion control and final landscaping) for the entire development
covered by this permit shall be of plants native to coastal Orange County and
appropriate to the natural habitat type. Native plants used for landscaping shall
be obtained, to the maximum extent practicable, from seed and vegetative
sources on the project site. No plant species listed as problematic and/or
invasive by the California Native Plant Society, California Exotic Pest Plant
Council, or as may be identified from time to time by the State of California shall
be utilized anywhere within the proposed development area, including the
landscaping within the 'excepted' areas noted in the first sentence of this
paragraph. No plant species listed as a ‘noxious weed’ by the State of
California or the U.S. Federal Government shall be utilized anywhere within the
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proposed development area, including the 'excepted' areas noted in the first sentence of this paragraph. Use of drought tolerant and native plant species is encouraged within the private residential lots and within approved turf areas in parks.

C. For visual purposes, prior to the issuance of the coastal development permit, a visual enhancement plan shall be submitted for review and approval by the Executive Director that is designed to soften, through selective placement of vegetation, the visual impact of large expanses of wall or roof within residentially and commercially developed portions of the site that would be visible from the proposed parks and significant vantage points along proposed trails. The plan shall provide for the adequate planting of shrubs, vines, groundcover, and occasional trees, selectively placed to soften the visual impact of approved development from significant vantage points. Such plantings shall comply with fuel modification requirements of the relevant fire authority. Vegetation for visual softening shall be installed by the landowner within 180 days of occupancy of each applicable residence in accordance with the CC&Rs for the proposed residences and prior to occupancy of the applicable commercial structure(s).

D. Temporary Erosion Control Landscaping. See 'General Construction Responsibilities' Condition.

E. Timing of Final Landscaping. Final landscaping guidelines for all areas outside the habitat management plan area shall be completed and submitted for review and approval by the Executive Director prior to the issuance of the coastal development permit. The guidelines shall state that landscaping shall be installed by the landowner consistent with the guidelines within 180 days of initial occupancy of each residence or each commercial building approved by this permit. Interim erosion control measures shall be identified in the guidelines. The guidelines shall be consistent with the requirements of this coastal development permit. The applicable covenants, conditions and restrictions required by Special Condition 5 for all areas outside the habitat management plan area shall require that landscaping be consistent with the landscaping guidelines approved by the Executive Director. The timing of re-vegetation efforts within the habitat restoration areas identified in the revised final Habitat Management Plan shall be as indicated in the revised final Habitat Management Plan approved by the Executive Director.

F. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit landscape palette lists to be incorporated into the landscaping guidelines detailed in Special Condition 11.E, subject to the review and approval of the Executive Director, that identify: 1) the native plant species that may be planted in the development; 2) a representative list of the non-native, non-invasive common garden plant species that may be planted in the

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residential and commercial lots and the rights-of-way of Avenida Pico and Avenida Vista Hermosa; 3) the non-native, non-invasive turf that may be planted within approved turf areas in parks, and 4) the invasive plant species that are prohibited from use anywhere within the development. The landscape palette for the development shall be consistent with the lists of approved plants as reviewed and approved by the Executive Director. These lists shall remain available for public consultation at the California Coastal Commission, the City of San Clemente, any homeowners association(s) established for the development, and from the on-site naturalist for the Project. Additions to or deletions from these lists may be made by the Executive Director of the California Coastal Commission, in consultation with the project’s restoration ecologist and the resource agencies. No deviations from the list shall occur in the plantings on the site without an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

G. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit for review and approval by the Executive Director final landscaping and erosion control plans for the entire project (e.g. open spaces, parks, trail corridors, common-open spaces, graded and disturbed areas, and the commercial and residential development). The plans shall be modified in accordance with the requirements of the special conditions of this permit. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

H. PRIOR TO SUBMITTAL OF FINAL LANDSCAPE PALETTE LISTS, LANDSCAPE PLANS, AND TEMPORARY EROSION CONTROL PLANS, the permittee shall obtain the review and approval of those lists and plans by the California Department of Fish and Game, the United States Fish and Wildlife Service and the Orange County Fire Authority. Written evidence of the required reviews and approvals shall be submitted with the lists and plans submitted to the Executive Director.

I. CONCURRENT WITH SUBMITTAL OF ALL PLANS IDENTIFYING LANDSCAPING, the permittee shall provide an analysis of each plan submitted, prepared by a qualified biologist, which documents that the landscaping complies with all of the landscaping and habitat management requirements of this permit.

J. Monitoring. Five years from the date of the completion of the installation of landscaping as required in these special conditions, the permittee shall submit for the review and approval of the Executive Director, a landscape monitoring
report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the requirements of the special conditions of this permit and the landscape plans approved pursuant to the special conditions of this permit. The monitoring report shall include photographic documentation of plant species and plant coverage. If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the permittee, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. The permittee or successor in interest shall implement the supplemental landscaping plan approved by the Executive Director and/or seek an amendment to this permit if required by the Executive Director.

12. **FIRE HAZARD MITIGATION AND FUEL MODIFICATION REQUIREMENTS**

A. All fuel modification shall be consistent with the requirements of this permit, the final habitat management plan approved by the Executive Director, and the final fuel management plan to be submitted for review and approval of the Executive Director pursuant to subpart B of this condition that is conceptually described in the "Conceptual Fuel Management Plan for the Marblehead Coastal Development Amended Tentative Tract No. 8817", prepared by Firewise 2000, Inc. dated 27 November 2002 and amended on February 14 and February 21, 2003. Proposed and future residential and commercial structures shall be set back a sufficient distance from proposed habitat preservation and restoration areas such that there is no vegetation thinning or clearance required by the relevant fire authority (e.g. Orange County Fire Authority) within habitat preservation and restoration areas and such that there is no prohibition by the fire authority on the types of native plant species that may be planted or allowed to grow within the habitat preservation and restoration areas, except as specified in the Conceptual Fuel Management Plan identified above and the final fuel management plan identified below. In general, the fuel management allowed within habitat preservation and restoration areas is outside of ESHA and buffers and limited to trimming of created native perennial grasses located between residences and CSS along each side of Marblehead canyon, and between residences and the trail and the eastern detention basin (Lot P depicted on PFM 8817). This requirement shall not result in any reduction of preserved and restored habitat or public access and recreation opportunities.

B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the permittee shall submit a final fuel management plan for the development for review and approval by the Executive Director which shall be consistent with the
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requirements outlined above and in the special conditions of this permit. The final fuel management plan and relevant development plans shall have received final approval from the relevant fire authority and the submittal shall include written evidence of said approval. The final plans for the development and the final fuel management plan shall incorporate the mitigation measures outlined in the “Conceptual Fuel Management Plan for the Marblehead Coastal Development Amended Tentative Tract No. 8817”, dated November 27, 2002 and amended February 14 and February 21, 2003. The fuel management plan shall include a statement which states that any changes to the plan, including any changes required by the relevant fire authority or other resource agencies, shall be reported to the Executive Director of the Coastal Commission, and shall require an amendment to this permit or a new coastal development permit prior to implementation of changes unless the Executive Director of the Coastal Commission determines that no amendment or new permit is required.

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

D. For purposes of this permit, this condition shall serve as notification to present and future property owners that certain structures and areas of land are subject to special fuel treatment requirements that are specified in the final fuel management plan approved by the Orange County Fire Authority and the Executive Director of the Commission. With some exceptions, all commercial and residential structures facing upon open spaces and perimeter slopes vegetated with coastal sage scrub within Tract 8817 are required to incorporate building construction features consistent with Orange County Fire Authority guidelines for construction of structures within special fire hazard areas. Furthermore, with some exceptions, there is a prohibition on the placement of combustible materials in an area of land within residential and commercial lots that abut open spaces and perimeter slopes vegetated with coastal sage scrub within Tract 8817. Proposed and future development shall conform to the requirements of the final fuel management plan.

13. LIGHTING

A. All lighting within the development shall be directed and shielded so that light is directed away from wetlands, canyons, coyote access corridors, bluff face, and other habitat areas. Furthermore, no skyward-casting lighting shall be used. The lowest intensity lighting shall be used that is appropriate to the intended use of the lighting. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for the review and approval of the Executive Director, revised plans to protect the wetlands,
canyons, coyote access corridors, bluff face and other habitat areas from light generated by the project. The lighting plan to be submitted to the Executive Director shall be accompanied by an analysis of the lighting plan prepared by a qualified biologist which documents that the lighting plan is effective at preventing lighting impacts upon adjacent environmentally sensitive habitat.

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

14. WALLS, FENCES, GATES, SAFETY DEVICES AND BOUNDARIES

A. Walls, fences, gates, safety devices and boundary treatments within or controlling access to open spaces and wildlife corridors shall be designed to allow the free ingress, egress and traversal of the habitat areas of the site by wildlife, including the coyote. Where the backyards of residences abut habitat areas, there shall be walls, fences, gates, safety devices and boundary treatments, as necessary, to contain domestic animals within the residential and commercial development and exclude such animals from sensitive habitat.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit final revised plans showing the location, design, height and materials of all walls, fences, gates, safety devices and boundary treatments for the review and approval of the Executive Director. Said plans shall be accompanied by an analysis of the wall, fence, gate and boundary treatment plan prepared by a qualified biologist which documents that the modified walls, fences, gates and safety barriers and boundary treatments will minimize the uncontrolled entry of domesticated animals into environmentally sensitive habitat and allow for free ingress, egress and traversal of the habitat areas of the site by wildlife, including the coyote. The plans shall have received prior review and approval by the City of San Clemente, the California Department of Fish and Game and the United States Fish and Wildlife Service.

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

15. PUBLIC ACCESS AND RECREATION IMPROVEMENTS AND SIGNAGE

A. The applicant shall ensure the construction of the public access and recreation improvements for park and trail purposes as described in the project description submitted by the applicant; in a letter from the City of San Clemente dated

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February 2, 2002; and depicted on plans titled Marblehead Coastal, Amended Tentative Tract No. 8817, Sheets 1 and 2, dated February 14, 2003; Marblehead Coastal Amended Residential Site Plan #97-16, plot date February 14, 2003; Marblehead Coastal Landscape Concept Plan Amended Commercial Site Plan, dated December 5, 2001; Marblehead Coastal Landscape Concept Plan Amended Residential Site Plan #97-16, dated February 14, 2003 and as modified by the special conditions of this permit. All public access and recreation improvements for park and trail purposes shall be completed and open for use by the general public in accordance with the final construction phasing plan approved by the Executive Director in accordance with the 'Construction/Development Phasing' special condition of this permit. Furthermore, the facilities identified in this condition shall be maintained in accordance with the final maintenance and funding program approved by the Executive Director in accordance with the 'Access and Habitat Management and Maintenance' special condition of this permit.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit revised final, detailed plans of the public access and recreation improvements for park and trail purposes for review and approval by the Executive Director. All facilities constructed shall be sited and designed to minimize disturbance to adjacent habitat areas and to minimize the obstruction of public views. All facilities shall conform with the final habitat management plan approved by the Executive Director. Plans shall identify all structures including location, dimensions, materials and colors, and use as well as sign text, size and orientation. All plans shall be of sufficient scale and detail to verify the location, size and content of all signage, and the location, size, materials and use of structures during a physical inspection of the premises. The plans shall be revised to incorporate any additional trails, open space and park areas required by the Special Conditions of this permit. Said plans shall have received prior review and approval by the City of San Clemente and shall reflect the City's final plans relative to the parks and trails. Development which is not specifically shown on the final plans which are reviewed and approved by the Executive Director and which the City intends to construct within the park shall require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required. The final plans shall also comply with the following:

1. Public Recreational Facilities: The final plans submitted for review and approval by the Executive Director shall include detailed plans identifying all recreational and support amenities such as picnic tables, outdoor cooking facilities, trash facilities, children's play facilities, restrooms, sports courts, recreational buildings, hardscape, etc. In addition to any other modifications necessary to comply with the special conditions of this permit, the following modifications shall be incorporated into the public recreational facilities plan:
   i. At minimum, restrooms shall be located within Lot E and within Lot G
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depicted on PFM 8817. An additional restroom may be located at Lot H
depicted on PFM 8817, provided the restroom complies with all
applicable requirements established in this permit (e.g. ESHA buffers,
fuel modification);
ii. Turf shall not be installed within the proposed turf area (Amended
Tentative Tract No. 8817 Lot I which is a portion of Lot L depicted on
PFM 8817) seaward of the central detention basin. In place of turf, the
area shall be re-vegetated with plants native to coastal Orange County
and appropriate to the natural habitat type. In addition to appropriate
vegetation, Amended Tentative Tract No. 8817 Lot I which is a portion of
Lot L depicted on PFM 8817 shall include a recreational trail along the
bluff edge and vista points including seating and interpretive signs. Only
wildlife resistant trash receptacles shall be utilized within Amended
Tentative Tract No. 8817 Lot I which is a portion of Lot L depicted on
PFM 8817;
iii. All turf within the 50 foot ESHA buffer, such as the area of Lot N of
Amended Tentative Tract No. 8817 (which has become a portion of Lot L
on PFM 8817) adjacent to the western canyon, shall be eliminated.
These areas shall be re-vegetated with plants native to coastal Orange
County and appropriate to the natural habitat type. The proposed trail
through this area shall be retained but re-routed to conform with the
buffer criteria identified in the 'Final Habitat Management Plan' special
condition of this permit.

2. Public Trail Plan: The final plans submitted for review and approval by the
Executive Director shall include detailed trail improvement plans for both
interim (as necessary) and final phases. An interim trail improvement plan
shall only be necessary should the applicant choose to implement interim
trail improvements in advance of final trail improvements in accordance with
the criteria outlined in the 'Construction/Development Phasing' condition of
this permit. The detailed interim and final trail improvement plans submitted
shall be in substantial conformance with the plans identified above and as
modified by the conditions of this permit. Said plan(s) shall include trail
alignment, width, and materials; designated parking; interpretive signs;
designated overlooks; recreational appurtenances such as benches, picnic
tables, shade structures, refuse containers; fencing between trails and
habitat areas; erosion control and footpath control plantings (such as cactus
adjacent to sensitive areas); steps, where necessary. In addition to any
other modifications necessary to comply with the special conditions of this
permit, the following modifications shall be incorporated into the final trail
plan:
   i. Unless deemed inconsistent with the final habitat management plan by
the Executive Director, a trail and pedestrian bridge that bypasses El
Camino Real and provides a direct trail connection between the portions
of the bluff park that flank the mouth of Marblehead canyon (e.g. Lot F

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and Lot J of proposed Amended Tentative Tract No. 8817 which are Lot E and a portion of Lot L depicted on PFM 8817 shall be constructed;

ii. A continuous pedestrian trail shall follow the entire rim of the western canyon with connections to the bluff edge trail at each end;

iii. The proposed trail segment that passes through the slot canyon (Lot C on proposed Amended Tentative Tract No. 8817 which is a portion of Lot L depicted on PFM 8817) shall be routed to avoid ESHA. To the maximum extent feasible the revised route shall maintain an on-site connection between the trail that follows the perimeter of the easterly detention basin (Lot P depicted on PFM 8817), and the park (Lot E depicted on PFM 8817), by following the perimeter of proposed Amended Tentative Tract No. 8817 Lots C and D which are Lot D and a portion of Lot L depicted on PFM 8817. The trail shall be located at the outer perimeter of the ESHA buffer, where feasible.

3. Sign Plan: The final plans submitted for review and approval by the Executive Director shall include a detailed signage plan which directs the public to the various public access and recreation opportunities on the project site and declares the public's right to use such facilities. Signs shall invite and encourage public use of access opportunities and shall identify, provide information and direct the public to key locations. Key locations including, but not limited to, public parking (including both parking along streets and within parking lots), parks, trails, restrooms, and overlooks. Signage shall be visible from major thoroughfares (e.g. El Camino Real, Avenida Pico, proposed Avenida Vista Hermosa) and from internal circulation roads, access corridors and parks. Signage shall include public facility identification monuments (e.g. public park name); community identification monuments (e.g. Marblehead Community); facility identification/directional monuments (e.g. location of park amenities); key directional monuments (e.g. small monuments at key street intersections to direct the public to various amenities); informational signage and circulation (e.g. maps of community and circulation, location of major amenities); interpretive signs, and roadways signs. Signs shall also identify key habitat preservation areas, explain biology and other resource characteristics of the site, explain water quality management at the site, and identify restricted areas. Signs not explicitly permitted in this document shall require an amendment to this permit unless the Executive Director determines that no amendment is required.

B. The revised plans shall, prior to submittal to the Executive Director, be reviewed and certified by a qualified professional to ensure that they are consistent with the Commission's approval and with the recommendations of any required technical reports.
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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 approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

16. WATER QUALITY

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a final revised Water Quality Management Plan (WQMP) for the post-construction project site. The WQMP shall be prepared by a licensed water quality professional and shall include project plans, hydrologic calculations, and details of the structural and non-structural Best Management Practices (BMPs) that shall be included in the project.

The final plan shall be reviewed by the consulting engineering geologist to ensure conformance with geotechnical recommendations. The final plan shall demonstrate substantial conformance with the Marblehead Coastal Water Quality Plan dated November 28, 2001, prepared by RBF Consulting with addendum sheet received April 17, 2002; revision dated April 18, 2002, including Revised Exhibit 8 'Marblehead Stormwater Quality Monitoring Plan by GeoSyntec Consultants; Exhibit 9 Recommended Maintenance Activities by GeoSyntec Consultants; Exhibit 10 Proposed Responsibility and Funding for Marblehead Coastal Development Water Quality Best Management Practices; and revision dated February 14, 2003. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

1. Best Management Practice Specifications

   a. Site Design, Source Control, and Treatment Control BMPs shall be designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of storm water and nuisance flow leaving the developed site.
   b. Maintain, to the maximum extent practicable, pre-development peak runoff rates and average volume of runoff;
   c. Post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of storm water runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
   d. The structural BMPs shall be constructed prior to or concurrent with the construction of infrastructure associated with the development within Tentative Tract 8817. Prior to the occupancy of residential or commercial structures approved by this permit, the structural BMPs proposed to service those structures and associated support facilities shall be constructed and
fully functional in accordance with the final WQMP approved by the Executive Director.

e. All structural and non-structural BMPs shall be maintained in a functional condition throughout the life of the approved development to ensure the water quality special conditions are achieved. Maintenance activity shall be performed according to the specifications in 'Exhibit 9: Recommended Maintenance Procedures, prepared by GeoSyntec Consultants' (dated February 5, 2002) of the "Marblehead Coastal Water Quality Plan" (dated November 28, 2001 plus amendments thereto). At a minimum, maintenance shall include the following:

i. All structural BMPs shall be inspected, cleaned and repaired, as needed prior to the onset of the storm season, no later than October 1st of each year; after every major storm event; and at least once during the dry season;

ii. Wetlands vegetation installed within water quality detention basins shall be monitored and maintained in a manner that ensures successful establishment of the vegetation and ongoing ability of the vegetation to remove pollutants for the life of the development. All such maintenance shall be conducted under the supervision of a qualified wetlands biologist or qualified professional for the life of the development;

iii. Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system and restoration of the eroded area. Should repairs or restoration become necessary, prior to commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work. If the Executive Director determines that an amendment or a new permit is required to authorize the work, no such work shall begin or be undertaken until it is approved in accordance with the process outlined by the Executive Director;

iv. Should a qualified water quality professional(s) determine that the Recommended Maintenance Procedures as proposed in the Marblehead Coastal Water Quality Plan need to be revised due to site-specific data, the applicant shall submit revisions and supporting information describing the reason for the revisions for review and approval of the Executive Director.
2. Residential Low Flow Diversion:

   a. The applicant shall submit final design specifications for the installation of the low flow diversion pumps for the residential area. Prepared by a licensed water quality professional, the designs shall demonstrate sufficient sizing of pumps and/or pump structures to divert all dry weather/nuisance flows from the drainage area called the "residential area" in the submitted Water Quality Plan.

3. Landscaping and Gardens

   a. Where irrigation is necessary and consistent with the final Habitat Management Plan approved by the Executive Director, the applicant shall install efficient irrigation systems, and to the extent feasible and commercially available satellite technology irrigation controllers, in all commercial landscaped areas and common areas and the CC&Rs required pursuant to Special Condition 5 shall require such efficient irrigation systems in landscaping and in residential lots. Efficient irrigation systems are those that match the water demand of the vegetation and the quantity of water delivered to the vegetation.

   b. Drought tolerant, non-invasive vegetation that is native to coastal Orange County shall be used as dictated in the 'Landscape Requirements' special condition of this permit.

   c. The use of chemical pesticides, herbicides, and fertilizers shall be minimized to the maximum extent practicable. An Integrated Pest Management Program (IPM) shall be implemented in all common area landscaping and encouraged in other development areas. The IPM Program shall be designed and implemented for all of the proposed landscaping/planting on the project site and shall include the following IPM features, as appropriate:
      
      i. Bacteria, viruses and insect parasites shall be considered and employed as a pest management measure, where feasible.
      
      ii. Manual weeding, hoeing and trapping.
      
      iii. Use of non-toxic, biodegradable, alternative pest control products.

   d. Where pesticides and/or herbicides are deemed necessary in conjunction with the IPM program, the list of pesticides and their application methods shall be included in the plans. Pesticides that are not on the list approved by the Executive Director shall not be used.

   e. The applicant or responsible party shall be responsible for educating all landscapers or gardeners on the project site about the IPM program and other BMPs applicable to water quality management of landscaping and gardens. Education shall include written and verbal materials.
4. **Restaurants:**
   a. Wash down areas for restaurant equipment and accessories and food preparation areas shall be designed to meet the following:
      i. The area shall be self-contained, equipped with a grease interceptor, and properly connected to a sanitary sewer. The grease interceptor shall have the capacity to capture grease to the maximum extent practicable.
      ii. If a wash area is to be located outdoors, it shall be covered, paved, have primary containment, and be connected to the sanitary sewer.
      iii. The grease interceptor shall be regularly maintained according to manufacturer's specifications to ensure maximum removal efficiencies.
      iv. The applicant shall be responsible for ensuring that restaurant owners, managers, and staff are educated about the use and maintenance of grease interceptors, as well as best management practices designed to limit, to the maximum extent practicable, the contribution of pollutants from restaurants, wash areas, loading areas, trash and recycling storage areas.
      v. Informational signs around the establishments for employees and customers about water quality and the BMPs used on-site shall be provided.

5. **Trash and recycling containers and storage areas:**
The applicant shall use trash and recycling containers and storage areas that, if they are to be located outside or apart from the principal commercial structures, are fully enclosed and water-tight in order to prevent stormwater contact with waste matter which can be a potential source of bacteria, grease, and particulates and suspended solids in runoff, and in order to prevent dispersal by wind and water. Trash container areas must have drainage from adjoining roofs and pavement diverted around the area(s), and must be screened or walled to prevent off-site transport of trash.

6. **Avenida Pico:**
   a. Runoff from all new and redeveloped surfaces on Avenida Pico, including the portion of road northeasterly of the proposed Avenida Vista Hermosa and Avenida Pico intersection, as well as all surfaces in the 8.5 acre drainage area that encompasses the northwesterly half of Avenida Pico fronting the project site (Lots D and E depicted on PFM 8817) and the Parking Lot (portion of Lot E depicted on PFM 8817) contained therein, shall be collected and directed through a system of media filter devices and bioswales. The filter elements shall be designed to treat, filter, or infiltrate runoff and 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants through filtration and biological uptake.
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The drainage system shall also be designed to convey and discharge runoff in a non-erosive manner.

b. The applicant shall incorporate the proposed bioswale within Lot E depicted on PFM 8817, in the treatment train treating runoff from Avenida Pico which is described in the April 26, 2002 letter prepared by RBF Consulting to the California Coastal Commission.

7. El Camino Real:

a. Runoff from all new and redeveloped surfaces on El Camino Real shall be collected and directed through a system of media filter devices. The filter elements shall be designed to treat, filter, or infiltrate runoff and 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants through filtration. The drainage system shall also be designed to convey and discharge runoff in a non-erosive manner.

8. Education and Training

a. Annual verbal and written training of employees, tenants, landscapers, and property managers and other parties responsible for proper functioning of BMPs in commercial development shall be required.

b. Outdoor drains in the commercial site shall be labeled/stenciled to indicate whether they flow to an on-site treatment device, a storm drain, or the sanitary sewer as appropriate.

c. Storm drain stenciling (“No Dumping, Drains to Ocean” or equivalent phrase) shall occur at all storm drain inlets in the development.

d. Annual verbal and written training of homeowners, Homeowners Associations, BMP maintenance crews, landscapers, and other parties responsible for proper functioning of BMPs in commercial development shall be required.

e. Informational signs around the commercial establishments for customers and employees/tenants about water quality and the BMPs used on-site shall be provided.

f. Informational signs around the residential development for homeowners and the public about urban runoff and the BMPs used on-site shall be provided near the detention ponds, at trail heads, and at centralized locations near storm drain inlets.

B. Water Quality Monitoring Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director, a final revised Water Quality Monitoring Plan, designed to characterize and evaluate the potential effects of stormwater and dry weather runoff from the proposed...
development on receiving waters. The final plan shall demonstrate substantial conformance with the "Exhibit 8 Marblehead Coastal Stormwater Quality Monitoring Plan Overview" dated December 5, 2001, prepared by GeoSyntec Consultants and its revisions dated February 5, 2002, and it shall be consistent with the requirements of these special conditions:

1. Water quality monitoring for the Marblehead Development shall comply with the following requirements:
   a. Baseline water quality data of pre-development conditions shall be collected prior to commencement of construction. The baseline water quality studies shall be sufficient to document background (pre-development) levels of the contaminants that will be analyzed in the ongoing water quality monitoring program.
   b. Dry weather sampling shall be conducted from the commencement of construction through the time in which low flow diversions are permanent. Dry weather sampling shall occur on a monthly basis.

2. The Water Quality Monitoring Plan shall include a map of the proposed sampling locations.

3. If monitoring results indicate that incidents are occurring in which applicable water quality standards including, but not limited to, any applicable standards in the California Toxics Rule and the California Ocean Plan, are not being met and/or that recurring incidents are threatening to establish a condition in which applicable water quality standards are not being met, the applicant shall investigate the cause or source of the incidents and/or condition and provide information to the Executive Director demonstrating any incidents and/or resulting condition in which applicable water quality standards have not been met is not the result of the applicant's failure to comply with the terms and conditions of this Permit. If the Executive Director determines otherwise, based on the information generated from the applicant's investigation and all other information available to the Executive Director, corrective actions or remedies shall be required. If remedies or corrective actions constitute development under Section 30106 of the Coastal Act, an amendment to this Permit shall be required, unless the Executive Director determines no such amendment is required.

4. Baseline water quality data of the pre-development conditions of the constituents that will be monitored in the Stormwater Quality Monitoring Plan shall be collected.

5. The applicant shall clarify parameters that will "trigger" a reevaluation of trash and debris BMPs in the Water Quality Monitoring Plan.

6. In addition to construction phase monitoring, post-development monitoring shall be conducted for a minimum period of three (3) years, following completion of development approved by this permit. Annual reports and semiannual updates containing data and analytical assessment of data in
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comparison to any applicable water quality objectives and other criterion specified herein, shall be submitted to the Executive Director of the Commission and to the San Diego Regional Water Quality Control Board for three (3) years after all construction approved by this permit has been completed.

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 approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

17. AVENIDA VISTA HERMOSA BRIDGE REQUIREMENTS AND PLAN REVISIONS

A. All development associated with the construction of the proposed Avenida Vista Hermosa Bridge shall maintain a minimum 25 foot horizontal setback from wetlands and a minimum 61 foot vertical clearance from the wetland surface, except as allowed below. Also, the permittee shall maximize public views available to motorists, bicyclists and pedestrians from the proposed bridge through the installation of bridge rails that minimize visual obstructions for bridge users. Furthermore, the bridge shall be constructed with materials that are colored and textured to be compatible with the canyon. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit revised plans to the Executive Director for review and approval. The revised plans shall incorporate the above requirements and also the following exceptions and show the following changes to the Avenida Vista Hermosa bridge:

1. Except for the limited, temporary, construction related encroachments described in a memorandum by Glenn Lukos Associates dated November 29, 2004 and a letter prepared by RBF Consulting dated November 29, 2004 and upon plans referenced therein, all development shall maintain a minimum 25 foot horizontal setback from wetlands and a minimum 61 foot vertical clearance from the wetland surface;

2. The bridge should be designed to provide suitable habitat for locally occurring bat species, as feasible.

3. Bridge rails shall be designed to minimize visual obstructions for bridge users. Bridge rails to be used shall have been crash tested and approved for use with sidewalks in California by the California Department of Transportation (CalTrans). At minimum, the applicant shall utilize the Type 80-SW bridge rail or Type ST-10 bridge rail, whichever is less visually obtrusive in this application. If a less visually obtrusive bridge rail has been crash tested and approved for use with sidewalks in California, said rail shall
be used. The Executive Director shall approve the least obtrusive CalTrans-approved bridge rail, which in order of preference from least preferable to most preferable known at this time consists of the Type-80SW (CalTrans-approved), "Wyoming modified" rail (not yet known to be CalTrans-approved), and then the "Alaska" rail (not yet known to be CalTrans-approved).

4. Excepting the roadway surface, the structure shall be constructed with materials that have been colored with earth tones that are compatible with the canyon; white and black tones shall not be used; the color shall be maintained throughout the life of the structure; the structure shall have a non-reflective texture to be compatible the adjacent canyon; decorative accents (e.g. stamped patterns) shall be used where feasible.

B. If a less visually obtrusive bridge railing becomes CalTrans approved after the permittee complies with subsection A of this condition, the permittee is strongly encouraged to use such railing. The Executive Director may approve revised plans incorporating said railing without requiring an amendment to this coastal development permit, unless the Executive Director determines that an amendment is 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. Except as noted in subsection B, no changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

18. REVISED PLANS

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for the review and approval of the Executive Director, revised final plans, approved by the City of San Clemente, which conform with the requirements of the special conditions of this permit and indicate the final layout of all development including but not limited to lots, grading, streets, utilities and easements, infrastructure, water quality management system, trails and other access corridors, park and recreation facilities, signs, interpretive amenities, habitat restoration, landscaping, and residential and commercial buildings and appurtenance. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.
19. CONFORMANCE OF DESIGN AND CONSTRUCTION PLANS TO GEOTECHNICAL REPORT

A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in Geotechnical Review of the Proposed Grading Plan for Marblehead Coastal, Amended Tentative Tract 8817, City of San Clemente, Orange County, dated October 19, 2001, and prepared by Lawson & Associates of San Clemente (Project No. 010009-01) and subsequent, supplemental recommendations identified in the geologic reports listed under Substantive File Documents of the adopted findings. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for the Executive Director's review and approval, evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluations approved by the California Coastal Commission for the project site.

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

20. ASSUMPTION OF RISK, WAIVER OF LIABILITY AND INDEMNITY

By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards from landslide, bluff retreat, erosion, and earth movement; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

21. LOT 314 RESTRICTION

Development of Lot 314 (depicted on PFM 8817) shall be limited to:

1. Grading and development approved by Coastal Development Permit 5-03-013, future visitor-serving commercial, active public recreation and support facilities,
passive public recreation and support facilities, open space, habitat restoration, and water quality improvement facilities; and

2. the following development, if approved by the Coastal Commission as an amendment to this coastal development permit or new coastal development permit: landslide and erosion repair and underground public utilities.

3. Future structures shall not exceed two floors above the land grade approved by Coastal Development Permit 5-03-013.

4. Future structures shall be sited and designed to minimize the obstruction of public views from public parks, trails and open spaces approved by Coastal Development Permit 5-03-013.

5. Future structures shall be sited and designed to conform, at minimum, with the ESHA buffer requirements outlined in this permit.

22. STRUCTURAL APPEARANCE CONDITION - EXTERIOR BUILDING MATERIALS

A. For structures that would be visible from, face upon, or be constructed within proposed parks, open spaces and trails, all walls and building exteriors shall be finished in earth tones including deep shades of brown, gray and green, with no white, light or bright colors except as minor accent features. The color shall be maintained throughout the life of the structure(s).

B. The proposed to be re-constructed terrace and down drains on the El Camino Real bluff shall be finished in earth tones that are compatible with the adjacent bluff face and vegetation. White and black tones shall not be used. The color shall be maintained throughout the life of the structure(s). The structure(s) shall have a non-reflective texture to match the adjacent bluff face.

23. RESIDENTIAL AREA HEIGHT RESTRICTIONS AND SLOPE EDGE SETBACKS

A. The heights of residential structures and appurtenances shall be as identified in the final plans approved by the Executive Director. Future development shall conform with these heights unless such heights are changed by an amendment to this permit, unless the Executive Director determines that no amendment to this permit is required.

B. Structures (enclosed) and appurtenant buildings on residential lots adjoining canyons within Tract 8817 shall be setback a minimum of 20 feet from the slope edge created as a result of grading approved under Coastal Development Permit 5-03-013. Slope edge shall be defined as the upper termination of a canyon slope. In cases where the top edge of the canyon is rounded away from
the face of the canyon slope as a result of grading approved under this permit or erosional processes related to the presence of the slope, the slope line or edge shall be defined as that point nearest the canyon slope beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the canyon slope. In a case where there is a steplike feature at the top of the canyon slope, the landward edge of the topmost riser shall be taken to be the slope edge.

24. **INLAND COMMERCIAL SITE RESTRICTIONS**

A. Non-visitor serving uses shall be prohibited on the main pedestrian level of all commercial buildings located on designated commercial lots in Tract 8817 (Lots 315 to 327 depicted on PFM 8817), or portions thereof, within the coastal zone.

B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the permittee shall provide written evidence of a reciprocal/shared parking agreement which ensures that all proposed and future uses in the commercial center shall have use of all parking spaces within commercial lots 315 to 327 (depicted on PFM 8817).

C. As proposed by the applicant, the general public shall be allowed to park within the parking spaces within commercial lots 315 to 327 (depicted on PFM 8817) at the same times and under the same conditions as the visitors to the shopping center. Parking validation from the commercial center shall not be required to park within the commercial parking area.

D. If the regional commercial center is constructed in sub-phases, prior to the occupation of any portion of each sub-phase, the permittee shall demonstrate to the Executive Director that sufficient parking to support that sub-phase, in combination with demand and available parking associated with any prior sub-phase, has been provided on-site. At minimum, such demonstration shall consist of a parking analysis prepared by qualified personnel and evidence of approval of the proposed quantity of parking from the City of San Clemente.

E. Structures (enclosed) and appurtenant buildings on commercial lots adjoining canyons within Lots 321 to 323 (depicted on PFM 8817) shall be setback a minimum of 20 feet from the slope edge created as a result of grading approved under Coastal Development Permit 5-03-013. Slope edge shall be defined as the upper termination of a canyon slope. In cases where the top edge of the canyon is rounded away from the face of the canyon slope as a result of grading approved by this permit or erosional processes related to the presence of the slope, the slope line or edge shall be defined as that point nearest the canyon slope beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the canyon.
slope. In a case where there is a steplike feature at the top of the canyon slope, the landward edge of the topmost riser shall be taken to be the slope edge.

F. The heights of commercial structures and appurtenances shall be as identified in the final plans approved by the Executive Director. Future development shall conform with these heights unless such heights are changed by an amendment to this permit, unless the Executive Director determines that no amendment is required.

25. FUTURE DEVELOPMENT RESTRICTION

This permit is only for the development described in Coastal Development Permit No. 5-03-013. Pursuant to Title 14, California Code of Regulations, sections 13250(b)(6) and 13253(b)(6), the exemptions otherwise provided in Public Resources Code, section 30610(a) and 30610(b) shall not apply. Accordingly, any future improvements to the single family houses and other structures described in this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Code, section 30610(d) and Title 14, California Code of Regulations, sections 13252(a)-(b), shall require an amendment to Permit No. 5-03-013 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government, unless the Executive Director of the Commission determines that no amendment or new permit is required.

26. AREA OF POTENTIAL ARCHAEOLOGICAL SIGNIFICANCE

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director a revised archeological monitoring plan prepared by a qualified professional, that shall incorporate the following measures and procedures:

1. The applicant shall comply with all recommendations and mitigation measures contained in the Archaeology Plan prepared for the project by Gavin H. Archer, RPA, dated November 2002, as amended by the Archeological Monitoring and Treatment plan dated February 20, 2003 and as further modified by the conditions below and any other applicable conditions of this permit;

2. If any cultural deposits are discovered during project construction, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or artifacts, the permittee shall carry out significance testing of said deposits and, if cultural deposits are found to be significant, additional investigation and mitigation in accordance with this special condition including all subsections. No significance testing, investigation or mitigation shall commence until the provisions of this special condition are followed, including all relevant subsections;

Italicized text identifies text added or otherwise modified pursuant to Special Condition No. 1.E or F.
3. If any cultural deposits are discovered, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or artifacts, all construction shall cease in accordance with subsection B. of this special condition;

4. In addition to recovery and reburial, in-situ preservation and avoidance of cultural deposits shall be considered as mitigation options, to be determined in accordance with the process outlined in this condition, including all subsections;

5. 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;

6. The permittee shall provide sufficient archaeological and Native American monitors to assure that all project grading that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times;

7. If human remains are encountered, the permittee shall comply with applicable State and Federal laws. Procedures outlined in the monitoring plan shall not prejudice the ability to comply with applicable State and Federal laws, including but not limited to, negotiations between the landowner and the MLD regarding the manner of treatment of human remains including, but not limited to, scientific or cultural study of the remains (preferably non-destructive); selection of in-situ preservation of remains, or recovery, repatriation and reburial of remains; the time frame within which reburial or ceremonies must be conducted; or selection of attendees to reburial events or ceremonies. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Where appropriate and consistent with State and Federal laws, the treatment of remains shall be decided as a component of the process outlined in the other subsections of this condition.

8. Prior to the commencement and/or re-commencement of any monitoring, the permittee shall notify each archeological and Native American monitor of the requirements and procedures established by this special condition, including all subsections. Furthermore, prior to the commencement and/or re-commencement of any monitoring, the permittee shall provide a copy of this special condition, the archeological monitoring plan approved by the Executive Director, and any other plans required pursuant to this condition and which have been approved by the Executive Director, to each monitor.

B. If an area of cultural deposits, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or artifacts, is discovered during the course of the project, all construction activities in the area of the discovery that has any potential to uncover or otherwise disturb cultural deposits in the area of the discovery and all construction that
may foreclose mitigation options or the ability to implement the requirements of this condition shall cease and shall not recommence except as provided in subsection C and other subsections of this special condition. In general, the area where construction activities must cease shall be 1) no less than a 50 foot wide buffer around the cultural deposit; and 2) no more than the residential enclave or commercial development area within which the discovery is made.

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

(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 changes 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 findings 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 a MLD. The Executive Director shall make the determination as to whether the deposits are significant based on the information available to the Executive Director. If the deposits are found to be significant, the permittee shall prepare and submit to the Executive Director a supplementary Archeological Plan in accordance with subsection D 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.

D. An applicant seeking to recommence construction following a determination by the Executive Director that the cultural deposits discovered are significant shall
submit a supplementary Archaeological Plan for the review and approval of the Executive Director. The supplementary Archeological Plan shall be prepared by the project archeologist(s), in consultation with the Native American monitor(s), the Most Likely Descendent (MLD) when State Law mandates identification of a MLD, as well as others identified in subsection E of this condition. The supplementary Archeological Plan shall identify proposed investigation and mitigation measures. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Mitigation measures considered may range from in-situ preservation to recovery and/or relocation. A good faith effort shall be made to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, capping, and placing cultural resource areas in open space. In order to protect cultural resources, any further development may only be undertaken consistent with the provisions of the Supplementary Archaeological Plan.

(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.

E. Prior to submittal to the Executive Director, all plans required to be submitted pursuant to this special condition, except the Significance Testing Plan, shall have received review and written comment by a peer review committee convened in accordance with current professional practice that shall include qualified archeologists and representatives of Native American groups with documented ancestral ties to the area. Names and qualifications of selected peer reviewers shall be submitted for review and approval by the Executive Director. The plans submitted to the Executive Director shall incorporate the recommendations of the peer review committee. Furthermore, upon completion of the peer review process, all plans shall be submitted to the California Office of Historic Preservation (OHP) and the NAHC for their review and an opportunity to comment. The plans submitted to the Executive Director shall incorporate the recommendations of the OHP and NAHC. If the OHP and/or NAHC do not respond within 30 days of their receipt of the plan, the requirement under this permit for that entities' review and comment shall expire, unless the Executive Director extends said deadline for good cause. All plans shall be submitted for the review and approval of the Executive Director.
The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

27. U.S. ARMY CORPS OF ENGINEERS APPROVAL

PRIOR TO COMMENCEMENT OF CONSTRUCTION, permittee shall provide to the Executive Director a copy of a permit issued by the U.S. Army Corps of Engineers, or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the U.S. Army Corps of Engineers. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

28. OTHER AGENCY APPROVALS

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall provide to the Executive Director a copy of a permit, or letter of permission, or evidence that no permit or permission is required for the project by the following entities: City of San Clemente; California Department of Fish and Game; U.S. Fish and Wildlife Service; Regional Water Quality Control Board, Orange County Fire Authority. The applicant shall inform the Executive Director of any changes to the project required by the City of San Clemente; California Department of Fish and Game; U.S. Fish and Wildlife Service; Regional Water Quality Control Board, and Orange County Fire Authority. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

29. PROOF OF LEGAL ABILITY TO COMPLY WITH CONDITIONS

Prior to issuance of the coastal development permit, the permittee shall provide 1) proof of undivided legal interest in all the properties subject to this permit, or 2) proof of the permittee's ability to comply with all the terms and conditions of this coastal development permit. No land subject to this coastal development permit may be developed until and unless all terms and conditions relating to the project as a whole have been met and agreed to in writing by all parties with ownership interest.
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30. COMPLIANCE

All development shall occur in strict compliance with the proposal as set forth in the application for permit, subject to any changes approved in this permit and subject to any approved revised plans provided in compliance with the Commission’s special conditions and any other special conditions noted above. Any proposed change from the approved plans must be reviewed and approved by the Executive Director to determine if an amendment or new permit is necessary.

31. CONDITION COMPLIANCE

WITHIN 1 YEAR OF COMMISSION ACTION ON THIS CDP APPLICATION, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements of Special Condition 10 and 11 that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

32. BUYER’S ACKNOWLEDGMENT

A. Prior to issuance of this coastal development permit, the owner(s) of the property that is the subject of this permit shall agree that before any sale or transfer of any of that property or any interest in that property that occurs before completion of all public amenities required in this permit and establishment of habitat restoration areas required in this permit (collectively, the “Improvements”), the owner-seller shall secure a letter from the buyer of the property (1) acknowledging (a) that the conditions imposed by this permit, as amended, run with the land, (b) that the use and/or development of the land is restricted by the special conditions of the permit and restrictions recorded on the property pursuant thereto, and development of the property is contingent on the implementation of habitat preservation and enhancement described in the final habitat management plan and the construction and opening to the public of public trails and other public access and recreation amenities, (c) that pursuant to the special conditions of the permit and the special offers recorded pursuant thereto or otherwise required in this coastal development permit, the public has certain rights with respect to future use of project streets and trails; and (2) agreeing that, prior to any further sale or transfer of any of the property or any interest in the property that occurs before completion of the Improvements, that buyer-turned-seller shall secure from its buyer a letter to the same effect.

B. Subsequent to the issuance of this coastal development permit, and prior to the sale or transfer of any of the property or any interest in the property that is the subject of this permit that occurs before completion of all of the Improvements, the owner of the property being sold shall secure a letter from the buyer (1) acknowledging (a) that the conditions imposed by this permit, as amended, run

Italicized text identifies text added or otherwise modified pursuant to Special Condition No. 1.E or 6
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with the land, (b) that the use and/or development of the land is therefore restricted by the special conditions of this permit and restrictions recorded on the property pursuant thereto, and development of the property is contingent on the implementation of habitat preservation and enhancement described in the final habitat management plan and the construction and opening to the public of public trails and other public access and recreation amenities, and furthermore, (c) that pursuant to the special conditions of the permit and the special offers recorded pursuant thereto or otherwise required in this coastal development permit, the public has certain rights with respect to future use of project streets and trails; and (2) agreeing that, prior to close of escrow on any further sale or transfer of any of the property or any interest in the property that occurs before completion of the Improvements, that that buyer-turned-seller shall secure from its buyer a letter to the same effect.

C. A copy of such letter(s) shall be provided to the Executive Director, and the Planning Director of the City of San Clemente before close of escrow.

33. INSPECTIONS

The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.

34. GENERIC DEED RESTRICTION

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.
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SPECIAL CONDITION (added by amendment –A3):

I. Fundng Condition Compliance and Document Review: Within 30 days of the approval of this amendment and consistent with its proposal, Marblehead shall fund necessary cost for condition compliance and expedited document review of this permit by the Coastal Commission. These costs will include staff or temporary help salaries and associated operating costs incurred by the Coastal Commission to review legal documents and evaluate compliance with the conditions of this permit.

The Executive Director will determine the form and manner of payment by Marblehead consistent with the requirements of state law and which will ensure efficiency and reasonable costs to Marblehead. The Executive Director will prepare a written request specifying all needed funding. If Marblehead and the Executive Director cannot agree on the funding or the schedule, the disagreement will be submitted to the Coastal Commission for resolution.