

Attachment-11:

Planning Commission Action Letter, dated December 10, 2013

December 10, 2013

April Winecki
Dudek
621 Chapala Street
Santa Barbara, CA 93101

PLANNING COMMISSION
HEARING OF DECEMBER 4, 2013

RE: Paradiso del Mare Ocean and Inland Estates; 06CDH-00000-00038, 06CDH-00000-00039, 07CUP-00000-00065, 09CDP-00000-00045, 10CUP-00000-00039, 10CDP-00000-00094

Hearing on the request of Brooks Street to consider the following:

- a) **06CDH-00000-00038**, [application filed on July 27, 2006; REVISED September 19, 2011] for a Coastal Development Permit in compliance with Section 35-169 of the Article II Coastal Zoning Ordinance, on property zoned AG-II-100 (APN: 079-200-004, known as the ocean lot) to allow construction of a 5,806 square foot residence with an attached 1,421 square foot garage/mechanical space, a detached 800 square foot guesthouse, 651 square foot guesthouse garage and pool;
- b) **06CDH-00000-00039**, [application filed on July 28, 2006; REVISED September 19, 2011] for a Coastal Development Permit in compliance with Section 35-169 of the Article II Coastal Zoning Ordinance, on property zoned AG-II-100 (APN: 079-200-008, known as the inland lot) to allow construction of a residence 7,326 (gross) square feet in size with an attached 1,837 square foot basement and garage/mechanical space, a detached 800 square foot guesthouse and pool;
- c) **07CUP-00000-00065**, [application filed on August 9, 2007] for a Minor Conditional Use Permit in compliance with Section 35-172 of the Article II Coastal Zoning Ordinance, on property zoned AG-II-100; to allow construction of two water lines, an 8-10 inch potable line and a 4 inch reclaimed line, that would extend west from an existing Goleta Water District water line located near the Bacara Resort, to APN 079-200-004 (the Ocean Estate) and APN 079-200-008 (the Inland Estate). The water line would cross the adjacent parcel, APN 079-200-005, situated between the Bacara Resort and the project site, through a proposed utility corridor that would be 20 feet in width. The water line would be privately owned and sized to only accommodate the proposed residential and agricultural development on the Ocean and Inland Estates. The extended water line to serve the Ocean and Inland Estates would measure approximately 7,500 feet in length;
- d) **09CDP-00000-00045**, [application filed on July 21, 2009] for a Coastal Development Permit in compliance with to 35-169 of the Article II Coastal Zoning Ordinance, on property zoned AG-II-100; allow construction of two water lines, an 8-10 inch potable line and a 4 inch reclaimed line, that would extend west from an existing Goleta Water District water line located near the Bacara Resort, to APN 079-200-004 (the Ocean Estate) and APN 079-200-008 (the Inland Estate). The

water line would cross the adjacent parcel, APN 079-200-005, situated between the Bacara Resort and the project site, through a proposed utility corridor that would be 20 feet in width. The water line would be privately owned and sized to accommodate the proposed residential and agricultural development on the Ocean and Inland Estates. The extended water line to serve the Ocean and Inland Estates would measure approximately 7,500 feet in length;

- e) **10CUP-00000-00039**, [application filed on November 12, 2010] for a Major Conditional Use Permit in compliance with Section 35-172 of the Article II Coastal Zoning Ordinance, on property zoned AG-II-100; to allow construction of a portion of the Coastal Trail across APN 079-200-004 (the Ocean Estate). The constructed portion of the Coastal Trail would measure approximately 1,600 feet in length;
- f) **10CDP-00000-00094**, [application filed on November 12, 2010] for a Coastal Development Permit in compliance with to 35-169 of the Article II Coastal Zoning Ordinance, on property zoned AG-II-100; allow construction of a portion of the Coastal Trail across APN 079-200-004 (the Ocean Estate). The constructed portion of the Coastal Trail would measure approximately 1,600 feet in length;

and to certify the Environmental Impact Report (09EIR-00000-00003, Revised February 2013, Biological Resources Section Revised August 2013) pursuant to the State Guidelines for Implementation of the California Environmental Quality Act. The proposed project includes public access and open space dedications. A complete project description is provided in Section 5.3 of this report. As a result of this project, significant unavoidable effects on the environment are anticipated in the following categories: Aesthetics (cumulative) and Cultural Resources (direct and cumulative). The EIR and all documents referenced therein may be reviewed at the Planning and Development Department, 123 E. Anapamu St., Santa Barbara. The EIR is also available for review at the Central Branch of the City of Santa Barbara Library, 40 E. Anapamu St., Santa Barbara and on the County of Santa Barbara Planning and Development website at <http://www.sbcountyplanning.org>. The applications involve AP No's. 079-200-004, 079-200-005, and 079-200-008, located south of Highway 101 approximately one mile west of the City of Goleta in the Gaviota area, Third Supervisorial District. (Continued from 3/20/13, 5/01/13, and 11/21/13)

Dear Ms. Winecki:

At the Planning Commission hearing of December 4, 2013, Commissioner Cooney moved, seconded by Commissioner Blough and carried by a vote of 4 to 1 (Hartman no) to:

1. Make the required findings for approval of the project specified in Attachment-A to the Memorandum to the Planning Commission, dated November 12, 2013, including CEQA findings;
2. Certify the Environmental Impact Report (09EIR-00000-00003, Executive Summary for the Revised EIR included as Attachment-C to the staff report dated February 21, 2013) as modified by EIR Revision Letter RV1 dated March 19, 2013 (included as Attachment-E to the Memorandum to the Planning Commission, dated March 19, 2013), EIR Revision Letter RV2, dated November 12, 2013 (Attachment-C to the Memorandum to the Planning Commission dated November 12, 2013) and the updated August 2013 biological resources section of the EIR (Attachment-D to the Memorandum to the Planning Commission dated November 12, 2013) and adopt the mitigation monitoring program contained in the conditions of approval; and,
3. Approve the project, Case Numbers 06CDH-00000-00038, 06CDH-00000-00039, 09CDP-00000-00045, 07CUP-00000-00065, 10CUP-00000-00039, and 10CDP-00000-00094 subject to the conditions included as Attachment-B to the Memorandum to the Planning Commission dated

November 12, 2013 as modified at the hearing of December 4, 2013 (including modifications to project conditions as requested by the Planning Commission and a proposed addition to the project description by the applicant to provide \$20,000 of seed money for the formation of a Gaviota Seals Watch volunteer group).

Condition No. 1 is amended as follows:

- 1. Proj Des-01 Project Description.** This project is based upon and limited to compliance with the project description, the hearing exhibits dated November 20, 2013, and all conditions of approval set forth below, including mitigation measures and specified plans and agreements included by reference, as well as all applicable County rules and regulations. The project description is as follows:

Ocean and Inland Estates

The proposed Ocean Estate residence would be 5,806 (gross) square feet in size, with an attached 1,421 square foot garage/mechanical space, a detached 800 square foot guesthouse with attached 651 square foot garage, and a pool. Future structural development and earth disturbance associated with the proposed Ocean Estate would be limited to a 1.9-acre development envelope. The proposed Ocean Estate would also include designation of a 1.7-acre envelope which would allow agricultural activities such as orchards, row crops, and horse/livestock keeping. Except for fencing and utilities, no buildings, structures, or hardscape is permitted within the agricultural envelope. The maximum height of the proposed residence and garage is 20 feet and the maximum height of the proposed guest house and attached garage is 21 feet.

The proposed Inland Estate residence would be 7,326 (gross) square feet in size with an attached 1,837 square foot basement and garage/mechanical space, a detached 800 square foot guesthouse and a pool. Future structural development and earth disturbance associated with the proposed Inland Estate would be limited to a 2.5-acre development envelope. The proposed Inland Estate would also include designation of a 16.3- acre envelope which would allow agricultural activities such as orchards, row crops, and horse/livestock keeping. Except for fencing and utilities, no buildings, structures or hardscape is permitted within the agricultural envelope. The maximum height of all proposed Inland Estate development is 22 feet, and is designed to be a minimum of 11 feet, 10 inches below the road grade of Highway 101 to maintain public horizon and blue water views over the development.

Total project grading would include approximately 16,890 cubic yards (cy) of cut and approximately 13,280 cy of fill. One blue gum eucalyptus tree would be removed. Landscaping includes native and drought tolerant species including six 36-inch-box oaks and 4.7-acres of dwarf and/or semi-dwarf orchard trees. Only organic and biodegradable fertilizers and pesticides/herbicides shall be used on-site.

Services and Infrastructure

The Ocean and Inland Estates would be served by a new shared access driveway. The driveway would enter the site via the existing site entrance off of US Highway 101 at the east side of the property and extend west through the property to the Inland Estate. The driveway would then extend from the Inland Estate, over the UPRR (Union Pacific Railroad) tracks via a new bridge, to the Ocean Estate. The driveway would be 1.6 acres in total area.

The bridge would be 215 feet long and 17.25 feet wide and would be supported on either side by bridge embankments. Grading for the bridge embankments on the ocean lot would include approximately 110 cy of cut and 9,100 cy of fill, and for the Inland lot approximately 75 cy of cut and 3,160 cy of fill. Bridge abutments would be supported on a 3:1 slope on the inland lot and a 2:1 slope on the ocean lot. The bridge will be constructed of weathered steel with wood rail cap and wood decking over a poured concrete deck. The applicant has received design approval and approval of a private easement for the bridge from UPRR.

Water would be obtained from the Goleta Water District. The proposed project would include construction of two private water lines, an 8 to 10 inch potable water line and a 4 inch reclaimed water line, extending from the existing Goleta Water District line to serve the Ocean and Inland Estates. Currently, the Goleta Water District service line terminates off-site near the Bacara Resort. The A private water line would be extended through an existing 20 foot easement across the adjacent Gaviota Holdings property (APN 079-200-005) to the project site. The water line would be privately owned and would serve the proposed residential and agricultural development on the ocean and inland lots. The complete water line to serve the Ocean and Inland Estates would be approximately 7,500 feet in length. Sanitary service would be provided through private septic systems as approved by Environmental Health Services. Fire service would be provided by Santa Barbara County Fire.

Public Access Dedications

The project includes a number of offers to dedicate (OTD) easements for both vertical and lateral public access and recreation facilities, contingent on approval of the proposed project as depicted on the Proposed Project and Open Space or Conservation Easement site plan. The proposed OTD includes:

1. A segment of the California Coastal Trail along the length of the ocean lot including a loop trail and lookout points. Portions of the Coastal Trail are defined as "Floating Trail" to allow for the best initial trail alignment. Approximately 1,600 linear feet of the total length of the California Coastal Trail on-site would be constructed by the property owner;
2. Vertical access to the beach from the California Coastal Trail at one of seven potential vertical beach access trail locations;
3. An access road from the existing site entry from Highway 101 to a parking lot for up to 20 vehicles (at one of two potential locations);
4. Pedestrian access from a parking lot and over the Union Pacific Railroad tracks from the inland lot to the Coastal Trail (at one of two potential alignments); and,
5. Access along the length of the property on the beach from the base of the bluffs to the mean high tide line.

The 1,600 lineal feet of California Coastal Trail constructed by the applicant will be located within a 20 foot easement and will be a multi-use trail consisting of a 6 foot wide decomposed granite path with two foot shoulders and low native vegetation plantings. Construction of this portion of the Coastal Trail will be completed concurrently with the installation of utility lines and will be fully completed prior to building permit issuance for the first residence constructed.

With the exception of 1,600 feet of Coastal Trail, which is proposed to be constructed by the applicant, the exact location of future trails, parking, vertical beach access and access over the UPRR tracks (including UPRR and PUC [Public Utilities Commission] easement and design approval) will be determined at a future date by the County of Santa Barbara.-The applicant (Brooks Street) will partner with the County of Santa Barbara to negotiate the approval of the public easement with UPRR and the PUC across the UPRR tracks.

Open Space or Conservation Easement and Habitat Restoration

The project includes a proposed approximately 117 acre Open Space or Conservation Easement extending over both the ocean and inland lots from Eagle Canyon to Drainage #5 on the west as depicted on the Open Space Conservation Easement site plan (included as Attachment-H to the November 12, 2013 Staff Memorandum to the Planning Commission). Aside from construction allowed under the Open Space or Conservation Easement Management Condition, no development would occur within The Easement, in perpetuity. The proposed project includes habitat restoration as identified in the Conceptual Upland and Riparian Mitigation and Monitoring Plan (Dudek, January 2012). This restoration would occur within a 23.56 acre portion of The Easement.

Gaviota Seals Watch

The proposed project includes the deposit of \$20,000 of seed money for the formation of a Gaviota Seals Watch volunteer group. The project applicant (Brooks Street) shall deposit the funds with the County of Santa Barbara. Release of the funds shall not occur unless and until the first Coastal Development Permit for the proposed project is issued and the Project approval is "final" and no longer subject to administrative or judicial challenge. The Project approval shall be deemed "final" when all administrative appeal periods have expired without an appeal having been filed; or when all statutes of limitation for judicial challenge to the Project approval have expired without litigation being filed; or, if litigation is filed, when a successful defense in such litigation has resulted in a final judgment upholding the Project approval.

Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

Condition No. 18 is amended as follows:

18. MM BIO-10. The applicant shall submit a revised Conceptual Upland and Riparian Mitigation and Monitoring Plan (dated January 2012) for the proposed restoration areas and a Conservation Easement Management Plan for the proposed conservation easement that provide for white tailed kite habitat enhancement and maintenance. The plan shall be subject to review and approval by the P&D biologist and shall be updated as follows:

1. Habitat Restoration. Restoration areas shall continue to include 4.56 acres of California sagebrush scrub, 0.11 acre of arroyo willow thicket, and 5.92 acres of purple needlegrass grassland. The Upland and Riparian Mitigation and Monitoring Plan shall be revised such that 5.88 acres of the currently proposed 12.97-acre

exotics-free buffer zone shall be seeded with native grasses that would provide 1:1 replacement of high quality white-tailed kite foraging habitat. Six (6) 36-inch box coast live oak trees and twenty (20) 1-gallon coast live oak saplings shall be planted in a location proximate to suitable foraging habitat as future potential nest trees. The trees shall be arranged so as to provide maximum cover or canopy area to enhance nesting potential for white-tailed kites.

2. Restoration Area Maintenance. The proposed 23.5-acre restoration area shall be managed in a manner that sustains high to moderate quality kite foraging habitat to provide for long-term maintenance of restoration acreages identified in item 1, above, and in order to prevent a reduction in grassland foraging habitat due to succession to other habitat types (e.g., scrub habitat). Specific management treatments (e.g. seasonal mowing, type conversion, focused herbicide application (i.e. spot spray) or other manipulation of vegetation) shall be identified in the Upland and Riparian Mitigation and Monitoring Plan. All other management techniques shall be given priority over herbicide use. The plan shall be revised to include this management goal.
3. Conservation Easement Maintenance. The proposed 91-acre conservation easement area shall be expanded to include Drainage 5 on the Ocean and Inland Lots, and the approximate 1.7-acre agricultural envelope proposed between Drainage 5 and 6 and just east of the access bridge on the Ocean Lot deleted, resulting in a 117-acre conservation easement area. The proposed 117-acre conservation easement area shall be managed for the life of the project in order to prevent the spread of invasive black mustard and to prevent the transition of the existing mosaic of herbaceous plants to shrubby areas opaque to kites. In addition to any other management practices, existing mustard fields within the 117-acre conservation easement shall be mowed annually, in spring (March to April), to a height of 1 foot prior to the flowering of mustard plants. A second mowing shall occur late in spring (May to June) to a height of 1 foot to remove late-blooming mustard or mustard plants that develop additional inflorescence stalks. In areas where flowering continues to be problematic, focused herbicide application may be required. Mowing shall not be required where it is determined infeasible or where it might conflict with the management objective of improving prey for white-tailed kites due to adjacency to sensitive habitats. This determination shall be made by the P&D Biologist in conjunction with the Project Biologist.
4. Adaptive Management. The revised Conceptual Upland and Riparian Mitigation and Monitoring Plan shall include an adaptive management plan to account for habitat alterations, natural or otherwise, that negatively affect white-tailed kite prey abundance or the ability of kites to access prey items within the conservation easement. The adaptive management plan is applicable to: 1) ensuring that performance criteria are achieved for the proposed 23.5-acre restoration area as detailed in the Conceptual Upland and Riparian Mitigation and Monitoring Plan and 2) ensuring fulfillment of the requirements of MM-BIO 10 Conservation Easement Maintenance relative to preventing the spread of black mustard and shrubby

vegetation within the Conservation Easement, as applicable to maintaining adequate white tailed kite foraging habitat.

5. The Plan shall consider specific restoration treatments to improve habitat value for native rodents, including the California vole. A goal of the restoration and management plan shall be to enhance and maintain habitat characteristics favorable to such rodent populations. The Plan shall include qualitative performance measures.

Plan Requirements and Timing: The revised Conceptual Upland and Riparian Mitigation and Monitoring Plan shall be submitted for review and approval by the P&D biologist prior to Coastal Development Permit issuance. Restoration planting, seeding, irrigation, and protective fencing shall be in place prior to final occupancy clearance by the P&D compliance planner and Building and Safety staff. **Monitoring:** Monitoring reports prepared by the Project Biologist shall be submitted to the permit compliance planner on an annual basis in June for five years following completion of restoration activities. The Project Biologist shall schedule and attend an annual site visit with the permit compliance planner to review the status of site maintenance.

Condition No. 20 is amended as follows:

20. **MM BIO-12. Harbor Seal Haulout.** The County or other public agency or non-government organizations constructing, operating, and ~~or~~ maintaining the vertical coastal access point shall prepare and implement a harbor seal protection/restricted access implementation plan. The plan shall include, but not be limited to, the following measures:
- Vertical access from the bluff top to the beach shall be restricted to the eastern portion of the Ocean Estate within the floating easement proposed as part of the project. Specifically, should vertical access to the beach be proposed at drainage 4 or west of drainage 4 on the subject property, the top of the stairway shall be closed during the harbor seal pupping/breeding season (e.g., February 1 to May 31).
 - No construction of the vertical access stairway shall occur during the harbor seal pupping/breeding season (e.g., February 1 to May 31) should vertical access to the beach be proposed at drainage 4 or west of drainage 4 on the subject property.
 - Access to the beach shall be closed 300 yards in each direction (i.e., north and south) of the harbor seal haulout during the harbor seal pupping/breeding season (e.g., February 1 to May 31).
 - Signs informing users of access restrictions and relevant requirements of the Marine Mammal Protection Act shall be posted at the parking area, vertical access point, beach, and other appropriate locations.
 - The County shall encourage and support the formation of a Gaviota Seals Watch similar to the Carpinteria Seals Watch.

Plan Requirements and Timing. The County or other implementing entity shall submit the seal haulout protection/restricted access implementation measures to P&D for review and approval prior to construction of the vertical coastal access point (stairway). The plan shall be prepared by a P&D approved biologist in consultation with the National Marine Fisheries

Service and the California Department of Fish and Game. The agency or organization constructing, operating, and ~~or~~ maintaining the vertical beach access stairway shall be responsible for ensuring compliance with the approved harbor seal protection/restricted access implementation plan. **Monitoring.** P&D shall review and approve the final design prior to grading permit issuance to ensure that the required signage is correctly installed prior to construction and project development.

Condition No. 21 is amended as follows:

- 21. MM BIO-13. Public Information.** The applicant, County, or other implementing entity shall post information at the trailhead of the future public coastal access trail, at the observation lookout, and the top of the beach access stairway, informing visitors that no off-leash pets are allowed on the trail and beach, and that the beach access is closed pursuant to MM-BIO-12 during the harbor seal pupping/breeding season (e.g., February 1 to May 31). ~~months of February 1 through May 31.~~ Other activity restrictions or beach access closure dates may be approved by P&D with appropriate supporting biological information. The purpose of the off-leash pet restriction and closure period is to minimize harassment and adverse effects to the harbor seal haul-out area and to minimize the effects of visitor use on the plants and animals found in the Naples Reef and adjacent marine and beach habitat, including Southern sea otters. **Plan Requirements and Timing.** ~~The applicant the applicant,~~ County, or other implementing entity shall submit plans for the proposed public information, and proposal for securing the beach access stairway during times when access is prohibited. Responsibility for supervising access and communicating the access restrictions to the public shall be borne by the applicant or subsequent public access manager. **Monitoring.** P&D and a qualified local biologist approved by the County shall monitor compliance throughout the performance period, as appropriate. ~~The area should be included, where feasible, on the route of law enforcement or other security personnel to enforce beach closure policies.~~

Condition No. 49 is amended as follows:

- 49. MM HAZ-1.** A Remedial action plan (RAP) shall be implemented by ARCO/BP and the property owner with oversight by the County Public Health Department Hazardous Materials Unit, in accordance with all applicable regulatory guidelines. Results of the site assessment shall be used to develop remedial alternatives and ultimately an updated RAP, including mitigation for potential secondary impacts such as dust emissions; disturbance to sensitive ecosystems (e.g., wetlands); and worker health and safety hazards. As a part of the Remedial Action Plan, and prior to Coastal Development Permit issuance for project development, Arco/BP shall submit a vapor monitoring work plan to Santa Barbara County P&D for the three wells in the immediate vicinity of the development envelope. The plan shall include vapor sampling methods, protocol and frequency, proposed action levels for chemicals of potential concern (e.g., methane), reporting requirements, and contingencies for vapor mitigation if needed. The work plan shall be approved prior to implementation. County Public Health Department Hazardous Materials Unit approval of the RAP shall be obtained and the RAP shall be implemented with County Public Health Department Hazardous Materials Unit oversight, in accordance with all applicable regulatory guidelines (such as the Health and Safety Code) and action levels. **Plan Requirements and Timing.** Remediation at the proposed project site by ARCO/BP and the property owner shall be completed in accordance with an approved RAP. Site remediation shall occur prior to issuance of a Coastal Development Permit for project development. **Monitoring.** The County Public Health Department Hazardous Materials Unit

shall review and approve the RAP and monitor and inspect remediation activities and documentation to ensure compliance with approved plans and applicable guidelines.

Condition No. 53 is amended as follows:

- 53. MM TR-1.** Traffic Control Plan. The owner/applicant shall submit to P&D and Caltrans the expected project construction schedule. The County shall allow concurrent construction of the project improvements. The plan shall specify that northbound construction vehicles shall be prohibited from accessing the site via the at grade crossing but rather shall use CalTrans offramps and overcrossings to access the site from the southbound Hwy 101 lane. **Plan Requirements:** The owner/applicant shall submit the traffic control plan. **Timing:** The traffic control plan shall be submitted to P&D for review and approval prior to Coastal Development Permit issuance. **Monitoring:** The owner/applicant shall provide P&D compliance monitoring staff with proof that all traffic control plan requirements have been met.

Condition No. 89 is amended as follows:

- 89. Rules-31 Mitigation Monitoring Required.** The Owner/Applicant shall ensure that the project complies with all approved plans and all project conditions including those which must be monitored after the project is built and occupied. To accomplish this, the Owner/Applicant shall:
1. Contact P&D compliance staff as soon as possible after project approval to provide the name and phone number of the future contact person for the project and give estimated dates for future project activities;
 2. Pay fees prior to CDH issuance as authorized by ordinance and fee schedules to cover full costs of monitoring as described above, including costs for P&D to hire and manage outside consultants when deemed necessary by P&D staff (e.g. non-compliance situations, special monitoring needed for sensitive areas including but not limited to biologists, archaeologists) to assess damage and/or ensure compliance. In such cases, the Owner/Applicant shall comply with P&D recommendations to bring the project into compliance. The decision of the Director of P&D shall be final in the event of a dispute;
 3. Note the following on each page of grading and building plans "This project is subject to mitigation Compliance Monitoring and Reporting. All aspects of project construction shall adhere to the approved plans, notes, and conditions of approval, and mitigation measures from Revised Final EIR 09EIR-00000-00003.
 4. Contact P&D compliance staff at least two weeks prior to commencement of construction activities to schedule an on-site pre-construction meeting to be led by P&D Compliance Monitoring staff and attended by all parties deemed necessary by P&D, including the permit issuing planner, grading and/or building inspectors, other agency staff, and key construction personnel: contractors, sub-contractors and contracted monitors among others.
 5. The applicant shall provide a specific notification to construction personnel advising them that they must remain within the construction area of the development envelope during construction activities and during breaks in order to prevent disturbance of seals. A copy of this notice shall be provided to P&D Permit Compliance staff prior to the start of construction. Permit compliance staff shall specifically discuss this limitation during the pre-

construction meeting and monitor throughout construction. Signs informing users of access restrictions and relevant requirements of the Marine Mammal Protection Act shall be posted on fencing at the boundaries of the development envelopes/construction areas.

6. If construction occurs during the harbor seal pupping/breeding season (e.g., February 1 to May 31), a County qualified biologist shall be hired by the applicant to provide construction personnel with specific training regarding avoidance of disturbance to harbor seals and to monitor construction activities at least twice weekly during the harbor seal pupping/breeding season. Monthly reports regarding compliance with protective measures shall be provided to P&D permit Compliance staff by the County qualified biologist.

The attached findings and conditions reflect the Planning Commission's actions of December 4, 2013.

The action of the Planning Commission on this project may be appealed to the Board of Supervisors by the applicant or any aggrieved person adversely affected by such decision. To qualify as an aggrieved persons the appellant, in person or through a representative, must have informed the Planning Commission by appropriate means prior to the decision on this project of the nature of their concerns, or, for good cause, was unable to do so.

Appeal applications may be obtained at the Clerk of the Board's office. The appeal form must be filed along with any attachments to the Clerk of the Board. In addition to the appeal form a concise summary of fifty words or less, stating the reasons for the appeal, must be submitted with the appeal. The summary statement will be used for public noticing of your appeal before the Board of Supervisors. The appeal, which shall be in writing together with the accompanying applicable fee must be filed with the Clerk of the Board of Supervisors within the 10 calendar days following the date of the Planning Commission's decision. In the event that the last day for filing an appeal falls on a non-business of the County, the appeal may be timely filed on the next business day. This letter or a copy should be taken to the Clerk of the Board of Supervisors in order to determine that the appeal is filed within the allowed appeal period. **The appeal period for this project ends on December 2, 2013 at 5:00 p.m.**

Final action by the County on this project may be appealed to the Coastal Commission by the applicant, an aggrieved person, as defined above, or any two members of the Coastal Commission within the 10 working days following the date the County's Notice of Final Action is received by the Coastal Commission.

A protest of mitigation fees imposed may be filed pursuant to Government Code Section 66020(a). The protest shall be filed at the time of approval or conditional approval of the development or within 90 days after the date of the imposition of the fees, dedications, reservations, or other exactions to be imposed on a development project. The Applicant is hereby notified that the 90-day approval period in which the Applicant may protest has begun.

Sincerely,

Dianne M. Black
Secretary to the Planning Commission

Planning Commission Hearing of December 4, 2013

Paradiso del Mare Ocean and Inland Estates; 06CDH-00000-00038, 06CDH-00000-00039, 07CUP-00000-00065, 09CDP-00000-00045, 10CUP-00000-00039, 10CDP-00000-00094

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Planning Commission File

California Coastal Commission, 89 S. California Street, Suite 200, Ventura, CA 93001

Owner: Brooks Street, Chris Yelich and Howard Zelefsky, 1300 Quail Ave. Suite 100, Newport Beach, CA

92660

Engineer: Penfield & Smith, Mike Osborn, 111 E. Victoria Street, Santa Barbara, CA 93101

County Chief Appraiser

County Surveyor

Fire Department

Flood Control

Community Services Department

Public Works

Environmental Health Services

APCD

Accounting, Planning and Development

Doreen Farr, Third District Supervisor

Joan Hartmann, Third District Planning Commissioner

Rachel Van Mullem, Chief Deputy County Counsel

Jenna Richardson, Deputy County Counsel

Nicole Lieu, Planner

**Attachments: Attachment A – Findings
Attachment B – Conditions of Approval**

DMB/dmv

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ATTACHMENT A: FINDINGS

1.0 CEQA FINDINGS: FINDINGS PURSUANT TO PUBLIC RESOURCES CODE SECTION 21081 AND THE CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES SECTIONS 15090 AND 15091:

- 1.1 CONSIDERATION OF THE ENVIRONMENTAL IMPACT REPORT:** The Final Environmental Impact Report, 09EIR-00000-00003 (Revised February 2013) as modified by EIR Revision Letter RV1 dated March 19, 2013, EIR Revision Letter RV2, dated November 12, 2013 and the updated August 2013 Biological Resources section (3.4) of the EIR was presented to the Planning Commission and all voting members of the Planning Commission reviewed and considered the information contained in the Final EIR, 09EIR-00000-00003, its Appendices contained within Final EIR Volume I, February 2013 (Final EIR Appendices F3.1 through F3.3, F3.8 and F3.13, Draft Revised EIR Appendices 1.0 and 3.2 through 3.14) EIR Revision Letter RV1, EIR Revision Letter RV2, and the updated August 2013 Biological Resources section (3.4) of the EIR prior to approving the project. In addition, all voting members of the Planning Commission have reviewed and considered testimony and additional information presented at or prior to public hearing on March 20, 2013 and November 20, 2013. The Final EIR reflects the independent judgment and analysis of the Planning Commission and is adequate for this proposal.
- 1.2 FULL DISCLOSURE:** The Planning Commission finds and certifies that the Final EIR, 09EIR-00000-00003 (Revised February 2013) as modified by EIR Revision Letter RV1 dated March 19, 2013, EIR Revision Letter RV2, dated November 12, 2013 and the updated August 2013 Biological Resources section (3.4) of the EIR constitutes a complete, accurate, adequate and good faith effort at full disclosure under CEQA. The Planning Commission further finds and certifies that the Final EIR has been completed in compliance with CEQA.
- 1.3 LOCATION OF RECORD OF PROCEEDINGS:** The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Secretary of the Planning Commission of the Planning and Development Department located at 123 East Anapamu Street, Santa Barbara, CA 93101.
- 1.4 FINDINGS THAT CERTAIN UNAVOIDABLE IMPACTS ARE MITIGATED TO THE MAXIMUM EXTENT FEASIBLE:** The Final EIR, 09EIR-00000-00003 (Revised February 2013) as modified by EIR Revision Letter RV1 dated March 19, 2013, EIR Revision Letter RV2, dated November 12, 2013 and the updated August 2013 Biological Resources section (3.4) of the EIR for the Paradiso del Mare Ocean and Inland Estates project identified environmental impacts which cannot be fully mitigated and are therefore considered unavoidable (Class I). Those impact areas are: Cultural Resources (direct and cumulative) and Aesthetics (cumulative). To the extent the impacts remain significant and unavoidable, such impacts are acceptable when weighed against the overriding social, economic, legal, technological, and other considerations set forth in the Statement of Overriding Considerations included herein. For each of these Class I impacts identified by the Final EIR, 09EIR-00000-00003, feasible changes or alterations have been required in, or incorporated into, the project which avoid or mitigate the impact to the maximum extent feasible, as discussed below:

Cultural Resources

The EIR concludes that the project would result in significant and unavoidable direct and cumulative impacts to cultural resources as a result of placing the proposed off-site utility corridor across a significant prehistoric archaeological site (CA-SBA-76). The proposed project would require placement of a fill cap over a portion of the site in order to bring water service lines to the property. CA-SBA-76 is considered particularly important due to its size, the density of cultural remains, the site's potential to provide substantial archaeological data, and well-known and significant Native American concerns regarding impacts to the site. A statement of overriding considerations citing the economic, legal and social public benefits of the project has been adopted for this impact (refer to Section 1.7, below). In addition, the Planning Commission finds that the mitigation measures applied to the proposed project mitigate impacts to the maximum extent feasible.

Specifically, MM CR-3a (condition no. 32) requires that a Phase I presence-absence testing program be implemented at eastern and western margins of CA-SBA-76 along the 20 foot wide utility easement corridor beginning begin 200 feet outside of the currently mapped site boundaries and proceeding toward the site until cultural materials are identified. The measure further requires that, upon discovery of cultural materials, presence/absence testing shall cease and a 100 foot buffer established outward from the point of discovery. Lastly, the measure requires Native American monitoring during work activities and placement of a notation on the final plans designating the 100 foot buffer as unbuildable area. This measure would lessen environmental effects to the maximum extent feasible because it would ensure that important archaeological information from the site would remain undisturbed and protected for future study or long-term preservation. Additionally, definition of the outer boundaries of the site within the utility corridor, and establishment of a 100 foot buffer would allow avoidance of the site to the maximum extent feasible.

MM CR-3b (condition no. 33) requires additional consultations with the Santa Ynez Tribal Elders Council and other interested Native American representatives to ensure that their concerns are taken into account during the course of the project. This measure would substantially lessen environmental effects because it would ensure that Native Americans, who have expressed considerable interest in the site, would be consulted prior to initiation of the project.

MM CR-3c (condition no. 34) requires that an ethnohistorian prepare an ethnohistory and descendant genealogy of the archaeological site area. This measure would lessen environmental effects to the maximum extent feasible because it would collect and document information pertaining to the ethnohistory of the site and would help to address Native American concerns pertaining to impacts to the site. MM CR-3d (condition no. 35), requires that, following completion of required fieldwork and consultations, geotextile matting and clean, culturally sterile, chemically neutral fill shall be deposited across the specified portion of this site where the utility corridor will cross. These activities would also be monitored by a Native American representative. This measure would lessen environmental effects because it would place the utility line in a fill cap rather than a trench through the site in a manner that would protect the site from degradation as a result of the use of inappropriate fill material and would separate the site from the fill using geotextile matting. Finally, MM CR-3e (condition no. 36) requires revegetation of the fill soil overlying the utilities easement with an appropriate mix of native species.

Mitigation to completely avoid the need to place a fill cap over CA-SBA-76 would not be feasible. In an attempt to avoid the need to place a fill cap over a portion of CA-SBA-76, the project applicant explored a number of potential alternative locations including realignment of the utility corridor on private property north of HWY 101, realignment within the HWY 101 Caltrans right-of-way, and realignment within the Union Pacific Railroad (UPRR) right-of-way. In addition, the applicant consulted with two different owners of the property to the east (where the utility corridor and impact to CA-SBA-76 would occur) in order to attempt to negotiate realignment of the utilities easement on that property. Ultimately, these attempts resulted in denial of the requests by Caltrans and UPRR and refusal by the northern and eastern property owners for utility corridor realignment.

Caltrans policy does not permit non-California Public Utilities Commission controlled, privately owned utilities within their ROW due to potential liability, except in limited situations where utilities are being extended across a highway to a property under a common ownership on both sides of the highway.¹ The applicant tried for several years to establish common ownership on both sides of the highway and was unsuccessful. The applicant attempted to secure encroachment permits for installing both parallel (within the UPRR right-of-way) and perpendicular (crossing the UPRR right-of-way) utility corridors to serve the proposed project. However, UPRR denied several conceptual plans submitted by the applicant to secure a conceptual approval for the encroachment permits. The limitations presented by Caltrans and UPRR restrictions present legal barriers to realigning the utility corridor.

The applicant tried to secure a utility easement from the land located north of the project site (Parsons), across the Gaviota Holdings (now referred to as 8501 Hollister.) property directly adjacent to and east of the site, and/or across lands located north. The applicant also attempted to purchase property from Parsons. These attempts were unsuccessful as the neighboring property owners elected not to allow the relocation of the utility line or to sell their property to the applicant. These refusals have been documented by correspondence from each of the property owners. The inability to receive agreement from property owners from the north and east to realign the utility corridor presents a legal barrier making realignment on these properties infeasible. No other measures are known which would further reduce the impact. Therefore cultural resource impacts would be mitigated to the maximum extent feasible and this finding can be made.

Aesthetics

The EIR concludes that the proposed project together with the adjacent Naples Townsite development and other development in the surrounding area would result in a significant and unavoidable cumulative aesthetic and visual impact (Class I). This impact would occur as a result of the transition of the Gaviota Coast from a predominantly rural area into one that is increasingly characterized by residential estates. Although project-specific aesthetic impacts would be reduced to Class II through mitigation, the proposed project's contribution to the cumulative aesthetic impact was determined to be significant

¹ Paradiso del Mare Service Extension and Coastal Access Offers to Dedicate Alternatives Analysis, November 5, 2010.

and unavoidable. The project's contribution was determined to be significant and unavoidable as a result of the fact that the proposed estates will be visible in the otherwise rural coastal plain of the Eastern Gaviota Coast. A statement of overriding considerations citing the economic, legal and social public benefits of the project has been prepared for this impact (refer to Section 1.7, below).

In addition, mitigation measures have been applied to the proposed project which would lessen this significant environmental effect to the maximum extent feasible. MM-AES-1a (condition 3) requires that all cut slopes excavated to reconstruct the existing access roadway be landscaped in a manner that will reduce the visibility and prominence of any exposed slopes and soils, and requires grading that will mimic native habitat forms on and around such slopes and limits. MM-AES-1a further requires that grading follow and extend the underlying natural topography of the site and limits average fill depth to 18 inches. This will reduce the project's contribution to the overall cumulative impact by ensuring that grading for the proposed project does not result in landforms or exposed dirt that would appear unnatural to the site. MMAES-1b (condition 4) requires submittal of a landscape plan and requires that landscaping be maintained for the life of the project. MM-AES-1c (condition 5) requires that the dwarf citrus orchard proposed as a part of the project be maintained at a height below the grade of US Highway 101 to protect blue-water views and requires that the trees be maintained throughout the life of the project. This measure will protect blue-water views and will ensure that the trees (which provide screening of the proposed estates) are maintained for the long-term. As the Gaviota Coast has historically supported agricultural areas, including row-crops and orchards, the proposed trees would be consistent with the surrounding area and their long-term maintenance will camouflage and reduce the project's contribution to the overall cumulative impact.

MM-AES-3a (condition 6) requires review of the project and any future proposed development by the Central Board of Architectural Review (BAR); MM-AES-3b (condition 7) requires that all proposed and future structural development on the project site occur within the proposed development envelopes; and, MM-AES 3c (condition 8) requires that proposed and future structures be limited to 22 feet in height and that they be designed to protect blue-water views. These measures will ensure that both the proposed project and any future development is reviewed for appropriate design and materials by the CBAR, that structures will be located within development envelopes clustered toward the western edge of the site and that blue-water views over structures of single-story/minimal height are maintained for the long term. These measures will reduce the project's contribution to the overall cumulative impact because they address both current and future development, provide long-term protection of blue-water views, and ensure that structures will be clustered toward the western edge of the site. Clustering toward the western portion of the site addresses the overall cumulative impacts because the Naples property is located to the west and location of the proposed structures toward this portion of the site will cluster the estates with any potential future development on the Naples lots.

MM-AES-3d (condition 9) requires that natural building materials (e.g. wood, stone) and colors compatible with surrounding terrain (earth-tones and non-reflective paint) be used on exterior surfaces of all structures. This measure will help to ensure that the proposed structures blend into the site as much as possible to reduce their visibility, thereby reducing the project's contribution to the overall cumulative impact. MM-AES-4 (condition 10) requires that lighting be of low intensity/low glare design, minimum

height, and hooded to direct light downward onto the subject lot. This measure will reduce the visibility of the proposed project during nighttime, thereby helping to preserve the rural nature of the site, characterized by dark night skies.

No other measures are known which would further reduce the project's significant and unavoidable contribution to cumulative aesthetic impacts on the Gaviota Coast. Therefore, aesthetic impacts would be mitigated to the maximum extent feasible and this finding can be made.

- 1.5 FINDINGS THAT CERTAIN IMPACTS ARE MITIGATED TO INSIGNIFICANCE BY CONDITIONS OF APPROVAL:** The Final EIR, 09EIR-00000-00003 (Revised February 2013) modified by EIR Revision Letter RV1 dated March 19, 2013, EIR Revision Letter RV2, dated November 12, 2013 and the updated August 2013 Biological Resources section (3.4) of the EIR identifies several subject areas for which the project is considered to cause or contribute to significant, but mitigable environmental impacts (Class II). For each of these Class II impacts identified by the Final EIR, 09EIR-00000-00003, feasible changes or alterations have been required in, or incorporated into, the project which avoid or lessen the significant environmental effect to insignificance, as discussed below:

Aesthetics

Significant but mitigable impacts identified in the Aesthetic Resource analysis of the EIR include: impacts to scenic vistas from Highway 101 and the Union Pacific Railroad (UPRR); impacts associated with development adjacent to scenic resources; impacts associated with addition of new elements into the undeveloped landscape; and nighttime lighting. Mitigations identified in the EIR would: restrict site grading such that surficial recontouring of the site would not noticeably affect the topography of the site (MM-AES-1a, condition 3); require preparation and submittal of landscape plans that address maintenance of the developed areas, orchards and open spaces on the lots (MM-AES-1b, condition 4); require use of dwarf and semi-dwarf citrus only in the designated orchard areas to maintain blue ocean views for the public (MM-AES-1c, condition 5); require review of development by the Central Board of Architectural Review (CBAR) (MM-AES-3a, condition 6); restrict development to within designated envelopes (MM-AES-3b, condition 7); limit new structures to a maximum height of 22 feet above natural or finished grade, whichever results in a lower building height (MM-AES-3c, condition 8); require use of natural building materials and colors (MM-AES-3d, condition 9); and restrict lighting design to ensure that any exterior lighting is of low intensity and low glare design (MM-AES-4, condition 10). Identified mitigations would reduce impacts to less than significant levels by ensuring that blue water views of the ocean would be preserved; that future development on-site would be single-story and clustered with existing development in development envelopes; that the proposed orchards would not block blue water views but would provide long-term screening of proposed structures; and by ensuring appropriate design through CBAR review and approval including site appropriate lighting and materials. Therefore, with the exception of cumulative Class I Aesthetic impacts discussed in Section 1.4, above, mitigations applied to the project would reduce Aesthetic impacts to less than significant.

Biological Resources

The EIR identifies the following sensitive biological resources as present, or potentially present, on the project site: wetlands, riparian corridors, Southern Tarplant, special status wildlife species including California red-legged frogs, southwestern pond turtles and tidewater gobies, monarch butterfly autumnal and overwintering habitat, perching trees, foraging area, and potential nest sites for white-tailed kites, and a harbor seal haul out adjacent to Naples reef. Various elements of the project could potentially impact these resources both during construction and following residency on the site.

Mitigation to reduce impacts to a less than significant level include: avoidance or restoration of Southern Tarplant following field surveys (MM-BIO-2, condition 11); avoidance of wetlands through project design (MM-BIO-5, condition 12); habitat restoration for direct loss of arroyo willow thicket located within riparian corridors (MM-BIO-2, condition 11); preconstruction surveys for California red-legged frogs, tidewater goby and southwestern pond turtle with protocol for measures to be taken in the event these wildlife are discovered on the site and in the area of proposed disturbance (MM-BIO-7, condition 14); surveys for overwintering monarch roosts and timing of construction to avoid the resource if present (MM-BIO-8, condition 15); establishment of a 100 foot structural setback and 75 foot driveway setback from the white tailed kite nest identified in the 2013 survey period to avoid impacts to the nesting tree (MM-BIO-9a, condition 16); nesting season surveys and establishment of buffers around construction areas to avoid temporary construction impacts to nesting birds (MM-BIO-9b, condition 17); development of conservation easement management provisions for white tailed kite habitat enhancement and maintenance within the 117-acre conservation easement area (MM-BIO-10, condition 18); installation of replacement trees to provide potential future perches for white tailed kite; review of future landscape planting plans by a biologist to eliminate any invasive exotic species and to ensure the use of locally collected native plant and seed materials for all native species used within or adjacent to open space areas (MM-BIO-11 and MM-BIO-14, conditions 19 and 22); closure of the beach within 300 yards of the seal haul out area during the harbor seal pupping/breeding season and posting of informational signage; (MM-BIO-12 and MM-BIO-13, conditions 20 and 21); limitations of the future use of rodenticides (MM-BIO-17a, condition 23); limitations on night sky lighting (MM-BIO-17b, condition 24); informational signage for the public regarding white-tailed kites, harbor seals and the sensitive resources present at Naples reef; and yearly surveys for the first three to five years and trail closures, as appropriate, to prevent impacts to seals and white-tailed kite nests (MM-BIO-18, condition 25). Therefore, mitigations applied to the project would reduce Biological Resource impacts to less than significant.

Cultural Resources

The EIR finds potentially significant but mitigable impacts associated with Cultural Resources due to the potential for future site development and landscaping to impact four prehistoric archaeological sites (CA-SBA-1323, CA-SBA-1322, CA-SBA-2440 and CA-SBA-2442H) and impacts to CA-SBA-2441 from utility corridor installation. Mitigation to reduce these impacts to less than significant levels includes: additional data collection (MM-CR-1a, condition 26); placement of sterile fill over geotextile matting (MM-CR-1b, condition 27); revegetation of the fill soils with an appropriate mix of native species (MM-CR-1c, condition 28); monitoring of all earth disturbing activities by an archaeologist and a Native American consultant (MM-CR-5, condition 38); and imposition of buffers around the previously mapped boundaries of four of the resource sites (MM-CR-2a MM-CR-2b and MM-CR-4, conditions 30, 31 and 37). These

mitigation measures would reduce these cultural resource impacts associated with the proposed development to less than significant levels. Therefore, with the exception of the Class I Cultural Resources impact discussed in Section 1.4, above, mitigations applied to the project would reduce Cultural Resource impacts to less than significant.

Fire Protection

The EIR finds potentially significant but mitigable impacts associated with Fire Protection. Specifically, the EIR finds that the proposed project would require fire protection services in the future, thereby potentially adversely affecting the Fire Department's ability to serve. Mitigation to reduce impacts to a less than significant level comprises the payment of development impact mitigation fees (MM-FP-1, condition 41). The EIR finds that the project could place homes and residents in an area with the potential for wildland fires. Mitigation to reduce impacts to less than significant levels includes: Fire Department review of any future landscape planting plans; removal of any dead or dying branches on any existing trees located within 100 feet of future development; fire safe construction techniques, including, e.g., Class A or B roofing; provision of adequate access to future structural development; and installation of an adequate number of fire hydrants at 750 gallons per minute (MM-FP-2a through MM-FP-2e, conditions 42 through 46). Therefore, mitigations applied to the project would reduce Fire Protection impacts to less than significant.

Geologic Processes

The EIR finds that the proposed project could expose people or structures to potentially significant impacts associated with seismicity or seismically induced hazards and unstable soil conditions. Mitigations to reduce impacts to less than significant levels include: geotechnical investigation to provide recommendations for construction and required adherence to these recommendations; adherence to applicable sections of the applicable Building Code requirements (MM-GEO-1, condition 47); and incorporation of soils engineering design recommendations addressing expansive soils and differential settlement (MM-GEO-2, condition 48). These mitigation measures would ensure that future structures on-site would be designed and constructed to avoid geologic hazards, thereby reducing impacts to less than significant. Therefore, mitigations applied to the project would reduce Geologic impacts to less than significant.

Hazardous Materials

The EIR identifies the subject site as the western portion of the Ellwood Oil Fields. Drilling, production, storage and distribution of oil and gas occurred on the site beginning in the 1940's and ending with decommissioning in 1996-1997. Identified potentially significant impacts are associated with risks to soil, groundwater, surface water and human health during construction activities and potential exposure of workers and future occupants to unknown or improperly abandoned oil and gas wells. Mitigations to reduce impacts to less than significant levels include the development and implementation of a County approved remedial action plan (RAP) and inspection and review by Santa Barbara County Hazardous Materials Unit of all remediation work (MM-HAZ-1, condition 49); cessation of construction activities in the event of detection of visual contamination or chemical odors during construction, with action taken for appropriate remediation (MM-HAZ-3, condition 50). Hazardous materials mitigation measures require that site remediation occur prior to issuance of Coastal Development

Permits for the proposed development and require additional remediation activities if hazardous materials are found during construction, thereby protecting workers and future occupants of the site from exposure and reducing impacts to less than significant levels. Therefore, mitigations applied to the project would reduce Hazardous Material impacts to less than significant.

Land Use

The EIR identifies potentially significant but mitigable impacts as a result of: introduction of new land uses or structures that would be incompatible with the existing surrounding character of the Gaviota coast; cumulatively considerable land use incompatibilities or policy inconsistencies; and potential inconsistency with Coastal Land Use Plan Archaeological and Historical Policies 10-1, 10-2 and 10-3. Mitigations pertaining to compatibility of development enumerated in the EIR would reduce these land use impacts to less than significant levels. Specifically, with regard to aesthetics, MM AES-1a through MM AES-1c, and MM AES-3a through MM AES-4, conditions 3-5 and 6-10, require preparation and submittal of landscape plans that address maintenance of the developed areas, orchards and open spaces on the lots; require use of dwarf and semi-dwarf citrus only in the designated orchard areas to maintain blue ocean views for the public; review by the Board of Architectural Review; confinement of structural development within development envelopes; a height limit of 22 feet for all proposed and future structures; and use of natural building materials compatible with the surrounding environment.

Consistent with Coastal Land Use Plan Archaeological and Historical Policies 10-1, 10-2 and 10-3, MM-CR-1a through MM-CR-1c conditions 26-28 require: pre-construction survey and data collection at the site, consistent with California Register of Historic Resources (CRHR) criteria; and the placement of geotextile matting followed by clean chemically neutral fill and site re-vegetation at the fill cap. Additionally, MM-CR-3a through MM-CR-3e, conditions 32-36, require: testing to determine the edge of CA-SBA-76 within the utility corridor and establishment of 100 foot buffers; monitoring; additional consultations with Native American representatives, preparation of an ethnohistory and descendant genealogy; and fill placement followed by revegetation.

Therefore, mitigations applied to the project would reduce Land Use impacts to less than significant.

Public Facilities

The EIR identifies potentially significant but mitigable impacts to Public Facilities related to increase in water use on the subject lots and the installation of private wastewater disposal systems on the lots. Mitigations which would reduce impacts to less than significant levels include: MM-PF-1/condition 51 which requires measures to reduce water consumption (efficient irrigation systems, water-conserving plumbing, etc.), and MM-PF-2/condition 52 which places restrictions on the location and design of future wastewater disposal systems in order to ensure adequate sanitary service. Therefore, mitigations applied to the project would reduce Public Facility impacts to less than significant.

Transportation and Traffic

The EIR finds that with implementation of a traffic control plan as mitigation (MM-TR-1, condition 53), potentially significant impacts associated with construction traffic would be mitigated to less than significant levels. Therefore, mitigations applied to the project would reduce Transportation and Traffic impacts to less than significant.

Water and Flooding

The EIR concludes that the proposed project would result in short term, potentially significant but mitigable impacts to surface water quality due to the potential for water pollution during construction. Mitigation to comply with the California State Water Resources Control Board Storm Water Permit Unit to implement best management practices during construction with respect to construction site runoff would reduce impacts to less than significant levels (MM-WAT-1, condition 54). The EIR also identifies potentially significant, but mitigable, impacts associated with: long-term increase in stormwater runoff due to increased impermeable surfaces on the lot; excavation of basements resulting in potential groundwater pollution; potential groundwater and ocean pollution due to the proposed on site wastewater treatment systems; and cumulative impacts to surface water and groundwater quality due to construction activities and residency on the lots. Mitigation measures including implementation of low impact development techniques such as bioswales (MM-WAT-2, condition 55), engineered designs for basements (MM-WAT-3, condition 56), and implementation of wastewater treatment system mitigation required under public facilities (MM-PF-2, condition 52) would reduce impacts to less than significant levels. Therefore, mitigations applied to the project would reduce Water and Flooding impacts to less than significant.

In summary, mitigation measures applied under each issue area where Class II impacts have been identified, would effectively mitigate said impacts to less than significant levels. Therefore, this finding can be made.

1.6 FINDINGS THAT IDENTIFIED PROJECT ALTERNATIVES OR MITIGATION MEASURES ARE NOT FEASIBLE: The Final EIR, 09EIR-00000-00003 (Revised February 2013) as modified by EIR Revision Letter RV1 dated March 19, 2013, EIR Revision Letter RV2, dated November 12, 2013 and the updated August 2013 Biological Resources section (3.4) of the EIR evaluated a no project alternative and alternative project locations as methods of reducing or eliminating potentially significant environmental impacts.

The Planning Commission finds that the following alternatives are infeasible for the reasons stated:

1. No Project Alternative. Two different “no project” alternatives were evaluated in Section 6.0 (Alternatives) of the EIR, the previously approved ARCO Dos Pueblos Golf Links project and a no project alternative that assumes the property would remain in its existing state. Both “no project” alternatives would be infeasible, as discussed below:
 - a. ARCO Dos Pueblos Golf Links Project. This alternative would be infeasible because it would meet none of the project objectives and would result in greater impacts than the proposed project. Project objectives including development of two high-quality coastal homes with supporting amenities on two existing legal parcels, retention of a majority of the site in permanent open space and

agricultural uses, project design to minimize impacts on natural and cultural resources and public views, dedication of easements for public access through the site, to, and along the beach and dedication of an open space conservation easement would not be attained by this alternative. Because this alternative was already analyzed under a certified EIR (92-EIR-16) it has been established that it would result in significant and unmitigable impacts to Air Quality and Agricultural Resources (cumulative). Impact conclusions for the ARCO Dos Pueblos Golf Links Project under 92-EIR-16 differ from conclusions identified in environmental review (09EIR-00000-00003) for the currently proposed project. Cumulative impacts to agricultural resources were identified as Class I in 92-EIR-16 as a result of removal of 61-acres of prime soils from potential agricultural production. However, impacts to agricultural resources were found to be Class III under the environmental review for the proposed project as a result of the documented lack of agricultural viability of the site. The two projects also differ because the ARCO Dos Pueblos Golf Links Project would result in permanent conversion of lands and alteration of soils to a use (golf course) that would eliminate the potential for future use of the site for agriculture, whereas the currently proposed project would not permanently alter or disturb the majority of soils on-site. Impacts to air quality were identified as Class I in 92-EIR-16 whereas environmental review (09EIR-00000-00003) for the currently proposed project identified Class III air quality impacts. This difference is accounted for: by the fact that the ARCO Dos Pueblos Golf Links Project involved a fully functioning golf course with full time employees and vehicle trips by patrons of the golf course whereas the proposed project includes two residential estates; and due to the fact that 92-EIR-16 considered air quality impacts from the decommissioning of oil production facilities whereas the currently proposed project occurs following the completion of majority of these decommissioning activities. Environmental review (09EIR-00000-00003) for the currently proposed project identified Class I impacts to Cultural Resources as a result of impacts to site CA-SBa-76 whereas environmental review (92-EIR-16) for the ARCO Dos Pueblos Golf Links Project did not. 92-EIR-16 assumed that the waterline to serve the ARCO Dos Pueblos Golf Links Project would be placed on existing, deteriorating pipe racks and also did not include a discussion of ethnic impacts. Existing pipe racks are no longer available to support the currently proposed waterline and therefore a utility fill cap is now proposed. In addition, recent consultation with Native American groups has provided additional information pertaining to the importance of CA-SBA-76 as an important ethnic site. Therefore, should the ARCO Dos Pueblos Golf Links Project alternative proceed under the current known circumstances, it would require extension of utility service lines through a portion of CA-SBA-76 to provide service to the golf links, and would not eliminate the Class I Cultural Resources impact caused by the proposed project. Therefore this alternative would be infeasible as a result of its inability to meet project objectives and due to the fact that it would result in greater environmental impacts than the proposed project.

- b. Property Remains in Existing State. This alternative would be infeasible because it would not meet the project objectives. Specifically, this alternative would not meet the project objectives of: 1) resolving pending litigation between the applicant and the Coastal Commission regarding the Dos Pueblos Golf Links Project, 2) developing two high-quality coastal homes with supporting amenities

on two existing legal parcels, 3) retaining a majority of the site in permanent open space and agricultural uses; and 4) providing public recreation access easements.

2. Alternative Sites. The EIR identified three alternative site configurations for the Ocean and Inland Estates. None of these alternatives would be environmentally preferred because, as discussed in Section 6.0 (Alternatives) of the EIR, they would not reduce impacts overall and would have greater impacts than the proposed project. The three alternative site configurations, discussed in detail in Section 6.0 (Alternatives) of the EIR, and shown on Attachment-I to the staff report, dated February 21, 2013, include the following:

- a. Alternative 1-Coastal Commission Inland Estate: Under this alternative, the Inland Estate would be located just west of the existing entry to the site and the Ocean Estate would be located in the same location as the proposed Ocean Estate.

As discussed in Section 6.0 of the EIR, and incorporated herein by reference, Alternative 1 would still require extension of utility service lines through a portion of CA-SBA-76 to provide service to the estates, and therefore would not eliminate the Class I Cultural Resources impact caused by the proposed project. As discussed in Section 6.0 of the EIR, and incorporated herein by reference, Alternative 1 would continue to result in a considerable contribution to the significant (Class I) cumulative Aesthetic impact. Because the project site is a rural coastal plain directly adjacent to US Highway 101 and is bisected by the Union Pacific Railroad, any homes constructed under Alternative 1 will be visible to the viewing public resulting in a considerable contribution to the overall significant cumulative effect of the transition of the Gaviota Coast. As discussed in Section 6.0 of the EIR, and incorporated herein by reference, Alternative 1 would result in greater aesthetic impacts as a result of the location of structures on more visible portions of the site. Therefore, Alternative 1 would not eliminate the project's considerable contribution to cumulative Class I Aesthetic impacts. In addition, Alternative 1 would not meet the project objectives of: 1) providing public recreation access easements; and 2) providing an open space conservation easement.

- b. Alternative 2- Coastal Commission Inland Estate and Ocean Estate Alternative Site: Under this alternative, the Inland Estate would be located just west of the existing entry to the site and the Ocean Estate would be located between Drainage #3 and Drainage #4.

As discussed in Section 6.0 of the EIR, and incorporated herein by reference, Alternative 2 would still require extension of utility service lines through a portion of CA-SBA-76 to provide service to the estates, and therefore would not eliminate the Class I Cultural Resources impact caused by the proposed project. As discussed in Section 6.0 of the EIR, and incorporated herein by reference, Alternative 2 would continue to result in a considerable contribution to the significant (Class I) cumulative Aesthetic impact. Because the project site is a rural coastal plain directly adjacent to US Highway 101 and is bisected by the Union Pacific Railroad, any homes constructed under Alternative 2 will be visible to the viewing public resulting in a considerable contribution to the overall significant cumulative effect of the transition of the Gaviota Coast. As discussed in Section 6.0 of the EIR, and incorporated herein by reference, Alternative 2

would result in greater aesthetic impacts as a result of the location of structures on more visible portions of the site. Therefore, Alternative 2 would not eliminate the project's considerable contribution to cumulative Class I Aesthetic impacts. In addition, Alternative 2 would not meet the project objectives of: 1) providing public recreation access easements; and 2) providing an open space conservation easement. Therefore, for the reasons stated above, Alternative 2 would be infeasible.

- c. Alternative 3- East-Side Inland Estate Site and Ocean Estate Alternative Site: Under this alternative, the Inland Estate would be located just east of the existing entry to the site, in an area partly obscured by existing mature trees, and the Ocean Estate would be located between Drainage #3 and Drainage #3.

As discussed in Section 6.0 of the EIR, and incorporated herein by reference, Alternative 3 would still require extension of utility service lines through a portion of CA-SBA-76 to provide service to the estates, and therefore would not eliminate the Class I Cultural Resources impact caused by the proposed project. As discussed in Section 6.0 of the EIR, and incorporated herein by reference, Alternative 1 would continue to result in a considerable contribution to the significant (Class I) cumulative Aesthetic impact. Because the project site is a rural coastal plain directly adjacent to US Highway 101 and is bisected by the Union Pacific Railroad, any homes constructed under Alternative 1 will be visible to the viewing public resulting in a considerable contribution to the overall significant cumulative effect of the transition of the Gaviota Coast. As discussed in Section 6.0 of the EIR, and incorporated herein by reference, Alternative 3 would result in similar aesthetic impacts as the proposed project. Therefore, Alternative 3 would not eliminate the project's considerable contribution to cumulative Class I Aesthetic impacts. In addition, Alternative 3 would not meet the project objectives of: 1) providing public recreation access easements; and 2) providing an open space conservation easement. Therefore, for the reasons stated above, Alternative 3 would be infeasible.

Therefore, none of the on-site alternative configurations for the Ocean and Inland Estates would be feasible methods of reducing or eliminating the project's potentially significant environmental effects.

- 1.7** STATEMENT OF OVERRIDING CONSIDERATIONS: The Final EIR, 09EIR-00000-00003 (Revised February 2013) as modified by EIR Revision Letter RV1 dated March 19, 2013, EIR Revision Letter RV2, dated November 12, 2013 and the updated August 2013 Biological Resources section (3.4) of the EIR for the Paradiso del Mare Ocean and Inland Estates project identifies direct and cumulative impacts to Cultural Resources and cumulative impacts to Aesthetics as significant environmental effects which are considered unavoidable. The Planning Commission therefore makes the following Statement of Overriding Considerations which warrants approval of the project notwithstanding that all identified effects on the environment are not fully mitigated. With respect to each of the environmental effects of the project listed below, the Planning Commission finds that the stated overriding benefits of the project outweigh the significant effects on the environment and that there is no feasible way to lessen or avoid the significant effects. Pursuant to Public Resources Code Section 21081(b) and CEQA Guidelines Sections 15043, 15092 and 15093, the project's specific economic, social,

legal and other benefits outweigh the unavoidable adverse effects of the project and the adverse environmental effects of the project are considered acceptable.

The project includes a number of offers to dedicate (OTD) easements for both vertical and lateral public access and recreation facilities, which would provide a significant social benefit to the general public. The OTD includes: a segment of the California Coastal Trail along the length of the ocean lot including a loop trail and lookout points (portions of the Coastal Trail are defined as "Floating Trail" to allow for the best initial trail alignment); approximately 1,600 linear feet of the total length of the California Coastal Trail on-site constructed by the property owner; vertical access to the beach from the California Coastal Trail at one of seven potential vertical beach access trail locations; an access road from the existing site entry from Highway 101 to a parking lot for up to 20 vehicles (at one of two potential locations); pedestrian access from a parking lot and over the Union Pacific Railroad tracks from the inland lot to the Coastal Trail (at one of two potential alignments); and, access along the length of the property on the beach from the base of the bluffs to the mean high tide line.

The proposed dedications and development of a segment of the California Coastal Trail is an important step toward achieving State and County public recreation and coastal access goals for the Gaviota Coast.

The project includes a proposed approximately 117-acre Open Space or Conservation Easement extending over both the ocean and inland lots from Eagle Canyon to the edge of the property on the west (excepting the proposed development envelopes). Aside from the future construction of public access improvements, no development would occur within the Open Space Conservation or Easement area, in perpetuity. This Open Space or Conservation Easement would provide biological resource benefits, as it would be managed to protect and enhance white-tailed kite habitat. In addition, the project includes a Conceptual Upland and Riparian Mitigation and Monitoring Plan (Dudek, January 2012). This restoration would occur within a 23.56 acre portion of the Open Space or Conservation Easement area and would enhance white-tailed kite habitat, riparian vegetation and California sagebrush scrub.

All areas of the project site not designated within the approximately 5-acres of development envelopes for residential development and access roads or within the approximately 18-acres of agricultural use areas would be maintained as open space and would not subject to future development. Therefore, the majority of the 143-acre site would remain in open space. Furthermore, the proposed development envelopes are clustered toward the west side of the site. As a result, the majority of public views over the site would continue to be of rural, undeveloped land, in perpetuity.

In summary, approval of the proposed project would provide economic, legal, technological, social, and other public benefits, including: 1) providing easements for public recreational access; 2) constructing 1,600 feet of public trail; 3) taking an important step toward achieving State and County public recreation and coastal access goals for the Gaviota Coast; 4) improving white-tailed kite habitat; 5) enhancing 23.56 acres of native habitat; 6) clustering development and maintaining a large majority (over 80%) of the site in open space, thereby preserving public views; and, 7) providing property tax revenue to the County. Therefore, the project includes benefits that override the findings of Class I impacts associated with aesthetic and cultural resources.

- 1.8 ENVIRONMENTAL REPORTING AND MONITORING PROGRAM:** Public Resources Code Section 21081.6 and CEQA Guidelines Section 15091(d) require the County to adopt a reporting or monitoring program for the changes to the project that it has adopted or made a condition of approval in order to avoid or substantially lessen significant effects on the environment.

The Final EIR includes a Mitigation Monitoring and Report Program designed to ensure compliance with adopted mitigation measures during project implementation, including specifications for each adopted mitigation measure that identify the action required and the monitoring that must occur. The Mitigation Monitoring Program is contained within the approved project description and conditions of approval, with their corresponding permit monitoring requirements and is included as Attachment-B to the November 12, 2013 Staff Memorandum to the Planning Commission.

2.0 COASTAL DEVELOPMENT PERMIT FINDINGS

- 2.1 Finding required for all Coastal Development Permits. In compliance with Section 35-60.5 of the Article II Zoning Ordinance, prior to issuance of a Coastal Development Permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and/or the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development.**

Access to the Ocean and Inland Estates would be provided by a new shared access driveway. The driveway would enter the site via the existing site entrance off of US Highway 101 at the east side of the property and extend west through the property to the Inland Estate. The driveway would then extend from the Inland Estate, over the UPRR (Union Pacific Railroad) tracks via a new bridge, to the Ocean Estate. Water would be obtained from the Goleta Water District. The proposed project would include construction of two private water lines, an 8-10 inch potable line and a 4 inch reclaimed water line, extending from the existing Goleta Water District line to serve the Ocean and Inland Estates. The water line would be privately owned and designed to serve and provide adequate fire flows to the proposed residential and agricultural development on the ocean and inland lots. A Water Use Agreement was entered into by the applicant and the Goleta Water District in 1998. In addition, the Goleta Water District issued a definitive letter, dated September 15, 2004 committing to deliver water to the property. Sanitary service would be provided through private septic systems as approved by Environmental Health Services (EHS). EHS provided a condition letter, dated February 23, 2012, noting that drywell performance tests were provided which established the feasibility of wastewater disposal for the ocean and inland lots. Fire service would be provided by Santa Barbara County Fire and police protection would be provided by the Santa Barbara County Sheriff. Therefore, this finding can be made.

- 2.2 Findings required for Coastal Development Permit applications subject to Section 35-169.4.3 for development that may be appealed to the Coastal Commission. In compliance with Section 35-169.5.3 of the Article II Zoning Ordinance, prior to the approval or conditional approval of an application for a Coastal Development Permit subject to Section 35-169.4.3 for development that may be appealed to the Coastal Commission the review authority shall first make all of the following findings.**

2.2.1 The development conforms:

- a. To the applicable provisions of the Comprehensive Plan, including the Coastal Land Use Plan;**
- b. The applicable provisions of this Article or the project falls within the limited exceptions allowed in compliance with Section 161 (Nonconforming Use of Land, Buildings and Structures).**

As discussed in Section 6.2 and 6.3 of the staff report, dated February 21, 2013 and in the memos to the Planning Commission dated March 19, 2013 and November 12, 2013, and incorporated herein by reference, the proposed project is consistent with all applicable policies of the County Comprehensive Plan, including the Coastal Land Use Plan, and with all requirements of the Article II Coastal Zoning Ordinance. Therefore, this finding can be made.

2.2.2 The development is located on a legally created lot.

Parcel validity for both the inland lot (APN: 079-200-008) and ocean lot (APN: 079-200-004) was established by Certificates of Compliance on September 15, 2006 (Grant Deed to CPH Dos Pueblos Associates, recorded December 3, 1998, Instrument No. 1998-094141, County of Santa Barbara). Therefore, this finding can be made.

2.2.3 The subject property and development on the property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and any other applicable provisions of this Article, and any applicable zoning violation enforcement fees and processing fees have been paid. This subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with Division 10 (Nonconforming Structures and Uses).

As discussed in Section 6.3 of the staff report, dated February 21, 2013 and in the memos to the Planning Commission dated March 19, 2013 and November 12, 2013, and incorporated herein by reference, the proposed project would conform to all applicable laws, rules, and regulations pertaining to the AG-II zone. There are no current violations associated with the subject parcel. Therefore, this finding can be made.

2.2.4 The development will not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.

The proposed development would not significantly obstruct public views from any public road or from a public recreation area to, and along the coast. The proposed homes would be located on a coastal bluff of a minimum height of 55 feet, well above the public beach and therefore would not block views up and down the beach or from the beach toward the mountains. From Farren Road, north of US highway 101 from the subject property, the structures would be visible but would not block blue-water views and would not significantly obstruct public views in general.

Proposed development on the site would be visible from the US Highway 101, but would not obstruct blue water views and would not significantly obstruct public views in general. The proposed residences and accessory structures are clustered on the western edge of the property and would be limited to development envelopes of 1.9 acres (Ocean Estate) and 2.5 acres (Inland Estate). All Inland and Ocean Estate structures have been designed to be a minimum of 11 feet, 10 inches below the road grade of US Highway 101 to maintain public horizon and blue water views over the development. Additionally, the project includes the proposed planting of new dwarf and semi-dwarf citrus orchards between the proposed new estate developments and the highway. These orchards would provide screening of the homes from HWY 101. MM-AES-1c (condition 5) requires maintenance of the proposed orchards to ensure that the trees are maintained at a height below the grade of HWY 101 and that the orchard is maintained for the life of the project. Therefore, this finding can be made.

2.2.5 The proposed development will be compatible with the established physical scale of the area.

The established physical scale of the area is primarily defined by the natural topographic features and rural nature of the site. The site is rural in character, consisting of a broad open terrace bisected by a number of drainages. Small groves of trees including eucalyptus, pines and cypress are clustered near the Ocean Estate development area and along portions of the coastal parcel near the coastal bluff. The homes would be one story in height and would not exceed the height of the existing trees on the project site. Both homes and all related structures are single story and would be designed to be subordinate to the existing landscape. The gentle slope of proposed roof forms would be consistent with the gently sloping nature of surrounding topography. The project would use natural building materials and colors compatible with the surrounding environment.

The project includes the proposed planting of new dwarf and semi-dwarf citrus orchards between the proposed new estate developments and the highway. The orchards would be consistent with the existing rural agricultural nature of the surrounding area. Landscaping would include primarily drought tolerant native or Mediterranean grasses, plants and shrubs. In addition, MM BIO-11 (condition 19) mandates the use of locally occurring native plant materials. This would ensure an aesthetic in the decorative landscaping consistent with the natural context of the Gaviota coast. Therefore, this finding can be made.

2.2.6 The development will comply with the public access and recreation policies of this Article and the Comprehensive Plan including the Coastal Land Use Plan.

The project includes a number of offers to dedicate (OTD) easements for both vertical and lateral public access and recreation facilities. The proposed OTD includes:

1. A segment of the California Coastal Trail along the length of the ocean lot including a loop trail and lookout points. Portions of the Coastal Trail are defined as "Floating Trail" to allow for the best final trail alignment.

- Approximately 1,600 linear feet of the total length of the California Coastal Trail on-site would be constructed by the property owner;
2. Vertical access to the beach from the California Coastal Trail at one of seven potential vertical beach access trail locations;
 3. An access road from the existing site entry from Highway 101 to a parking lot for up to 20 vehicles (at one of two potential locations);
 4. Pedestrian access from a parking lot and over the Union Pacific Railroad tracks from the inland lot to the Coastal Trail (at one of two potential alignments); and,
 5. Access along the length of the property on the beach from the base of the bluffs to the mean high tide line.

The 1,600 lineal feet of Coastal Trail constructed by the applicant will be located within a 20 foot easement and will be a multi-use trail consisting of a 6 foot wide decomposed granite path with two foot shoulders and low native vegetation plantings. Construction of this portion of the Coastal Trail will be completed concurrently with the installation of utility lines and will be fully completed prior to building permit issuance for the first residence constructed.

With the exception of 1,600 feet of Coastal Trail, which is proposed to be constructed by the applicant, the exact location of future trails, parking, vertical beach access and access over the UPRR tracks (including UPRR and PUC [Public Utilities Commission] easement and design approval) will be determined at a future date by the County of Santa Barbara. The applicant will partner with the County of Santa Barbara to negotiate the approval of the public easement with UPRR and the PUC to across the UPRR tracks.

With respect to the project's consistency with particular policies, the project would be consistent with Coastal Land Use Plan Policy 7-1 because the County's ability to accept offers of dedication will increase opportunities for public access and recreation. The project will be consistent with Coastal Land Use Plan Policies 7-2 and 7-3 because the project includes the granting of an easement to allow vertical access to the beach and shoreline and along the shoreline from the base of the bluffs to the mean high tide line. Coastal Act Policy 30210 requires that, "*in carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners and natural resource areas from overuse.*" The project would be consistent with this requirement because it would provide an offer to dedicate public access in perpetuity to and along the coast while protecting the rights of the private property owners. Coastal Act Policy 30211 requires that, "*development shall not interfere with the public's right of access to the sea where acquired through use, custom, or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*" The project would be consistent with this requirement because it would provide an offer to dedicate in perpetuity public access to and along the coast and access from the base of the bluffs to the mean high tide line, including the use of dry sand and rocky beaches to the first line of terrestrial vegetation.

Therefore the development will comply with the public access and recreation policies of the Article II Coastal Zoning Ordinance and the Comprehensive Plan including the Coastal Land Use Plan, and this finding can be made.

2.3 Additional finding required for sites zoned Environmentally Sensitive Habitat (ESH) Overlay. In compliance with Section 35-97.6 of the Article II Zoning Ordinance, prior to the issuance of a Coastal Development Permit for sites designated with the ESH Overlay zone the review authority shall first find that the proposed development meets all applicable development standards in Section 35-97.8 through Section 35-97.19.

The proposed development would meet all applicable development standards in Section 35-97.8 through Section 35-97.19 of the Article II Zoning Ordinance. With regard to Section 35-97.9 (Development Standards for Wetland Habitats), the proposed project avoids impacts to all wetlands with the exception of a potential impact to .002 acres of Creeping Spike Rush Marsh wetland (isolate wetland #6) as a result of the utility corridor. However, in the Conceptual Upland and Riparian Mitigation and Monitoring Plan (John Davis, Dudek, January 2012) included as part of the proposed project, this potential impact would be mitigated at a ratio of 4:1. In addition, in order to protect the wetland, Mitigation Measure MM-BIO-5 (condition 12) requires that the utility line be attached to the underside of the future public access bridge that would cross the UPRR tracks at the east side of the property and by realigning the utility corridor by approximately 30 feet in the area adjacent to the wetland. Prior to the construction of the future bridge, utilities would be attached to the underside of the existing on-site bridge. The project would involve no wetland dredging, no intensive recreation within wetlands or required wetland buffers, and no wastewater discharge into wetlands. No vehicle traffic within wetlands is proposed or would occur. No mosquito abatement and no grazing or agricultural uses would occur within wetlands. As discussed above, the proposed project avoids impacts to all wetlands and avoids placement of development in close proximity to wetlands with the exception of a potential impact to .002 acres of Creeping Spike Rush Marsh wetland (isolate wetland #6) as a result of the utility corridor, which is mitigated by 4:1 replacement under the proposed Conceptual Upland and Riparian Mitigation and Monitoring Plan. Therefore, the project would be consistent with the requirements of 35-97.9 of the Article II Zoning Ordinance.

Consistent with the requirements of Section 35-97.10 (Development Standards for Native Grassland Habitats) of the Article II Zoning Ordinance, the project would not result in the removal of purple needlegrass grassland, would involve no grazing, and development has been sited and designed to protect native grassland areas.

Consistent with the requirements of Section 35-97.12 (Development Standards Butterfly Tree Habitats) of the Article II Zoning Ordinance, the proposed project would avoid (and would not prune or remove) trees used by overwintering monarch butterflies. In addition, all proposed project development would occur outside the minimum 50-foot setback. Therefore the proposed project would be consistent with this requirement. In addition, MM-BIO-08 (condition 15) requires that, upon identification of the location of the future public access improvements (vertical beach access, parking lot) construction of the future improvements shall avoid the monarch butterfly roosting/overwintering season.

Consistent with the requirements of Section 35-97.13 (Development Standards for Marine Mammal Rookery and Hauling Ground Habitats) recreational activities near or

on areas used for marine mammal hauling grounds would be carefully monitored and no marine mammal rookeries shall not be altered or disturbed by recreational or any other uses during the times of the year when such areas are in use for reproductive activities, i.e., mating, pupping, and pup care. The proposed project would include closure of the existing unauthorized access to the mouth of Tomate Canyon (near a seal-haul-out) by future homeowners. Closure of this unauthorized trail would eliminate the most direct existing source of disturbance to seals using the haulout. In addition, MM-BIO-12 (condition 20) requires that access to the beach be closed 300 yards in each direction of the harbor seal haulout during the harbor seal pupping/breeding season, posting of informational signage, and restriction of the development of future vertical beach access to the eastern portion of the ocean lot. With the inclusion of these protective measures, the project would be consistent with Section 35-97.13.

The project would be consistent with the requirements of Section 35-97.14 (Development Standards for White-Tailed Kite Habitats). There would be no development within roosting areas as communal roosting has not been documented on-site. The closest documented nesting area to the proposed development is a cluster of Monterey pine trees located within the proposed ocean estate development envelope. The cluster includes a successful nest tree identified in 2013 and surrounding trees (which provide a screening buffer to the nest tree). As mitigated, the development (including agricultural areas and driveways) would be reduced and/or reconfigured to avoid the nest tree and surrounding trees. In addition, as mitigated, all structures would be located a minimum of 100 feet away from the canopy of the nest tree and the driveway would be located a minimum of 75 feet from the nest tree. These setbacks are adequate given that kites do not typically nest in the same tree from year to year; there are many other trees on-site that could be utilized as potential nest sites existing on the lots; MM-BIO-10 (condition 18) would improve foraging habitat for kites (essential to reproductive success) and would establish new trees that could be used for future nesting in closer proximity to foraging habitat; and, kites have exhibited tolerance to regular human activity as seen at UCSB (100 feet to Harder Stadium facilities) and as close as 50-70 feet to residential structures and public trails (Isla vista and More Mesa).

There would be no recreational use within roosting areas as communal roosting has not been documented on-site. Recreational use of nesting areas would be minimal (e.g. walking, bird watching). Pursuant to mitigation measure MM-BIO-18 (condition 25) yearly surveys (for 3 to 5 years) conducted by a County-qualified biologist would establish buffers and/or trail closures around any identified nest sites. Three to five years of management is adequate given that kites will acclimate to human activity and have shown tolerance for human presence in proximity to trails (e.g. More Mesa). Additional protective measures to protect white-tailed kite nesting habitat will include fencing of trails, the posting of educational and informational signage describing the sensitive nature of the nesting habitat for white-tailed kites and identifying trail use limitations. The signage will be located outside of the nesting area and will explain why the public shall refrain from disturbing the avian breeding ecosystem. The project includes the planting of six 36-inch-box coast live oak trees and a 117-acre open space conservation easement area to be managed to protect and enhance white-tailed kite habitat.

As a result of the proposed project, the total available suitable foraging habitat on-site would decrease from 33.7 to approximately 27.82 acres, thus resulting in a net decrease of 5.88 acres of suitable foraging habitat for white-tailed kites. However, the project as proposed includes a 91-acre open space conservation easement (expanded to 117 acres

under MM-BIO-10/condition 18), and MM-BIO-10 (condition 18) requires additional measures to protect and enhance white tailed kite foraging habitat. Those measures include long-term maintenance of the conservation easement to remove and prevent the intrusion of black mustard, establishment of 5.88 acres of high quality white-tailed kite foraging habitat, and management of restoration areas identified in the proposed Conceptual Upland and Riparian Mitigation and Monitoring Plan to ensure maintenance of kite habitat. With the incorporation of these measures the project can be found consistent with the development standards for protection of white-tailed kite habitat. Therefore, the maximum feasible area would be retained as grassland to provide feeding area for the kites.

Finally, when considered as a whole and in comparison to project alternatives (see Sections 1.6 and 1.7 of the Findings) the proposed project reduces impacts to Environmentally Sensitive Habitat to the maximum extent feasible while still allowing for residential development on each lot as permitted by the Article II Coastal Zoning Ordinance.

3.0 CONDITIONAL USE PERMIT FINDINGS: In compliance with Section 35-172.8 of the Article II Zoning Ordinance, prior to the approval or conditional approval of an application for a Major or Minor Conditional Use Permit the review authority shall first make all of the following findings, as applicable:

3.1 That the site for the project is adequate in size, shape, location and physical characteristics to accommodate the type of use and level of development proposed.

The project site is approximately 143-acres (composed of a 64-acre ocean lot and 78-acre inland lot) and is generally level. The proposed project would involve the construction of two residences along with accessory uses including garages and guesthouses. Proposed and future structural development would be confined to a 1.9-acre development envelope on the ocean lot and a 2.5-acre development envelope on the inland lot. The project includes the dedication of easements to allow for future public access improvements on-site as well as a 91-acre open space conservation easement (expanded to 117 acres under MM-BIO-10). Therefore, a majority of the property would remain in open space. The site would be served by the extension of a Goleta Water District waterline. A minor Conditional Use Permit (CUP) is required for the proposed extension of the waterline to serve the project and a Major Conditional Use Permit (MCUP) is required for the applicants' proposal to construct 1,600 feet of public trails. As a result of the overall size of the property and gentle topography of the site, the property would be adequate to support all development proposed, including the proposed waterline and 1,600 feet of trail. Therefore, this finding can be made.

3.2 That adverse environmental impacts are mitigated to the maximum extent feasible.

As discussed in the EIR prepared for the project 09EIR-00000-00003 (Revised February 2013) as modified by EIR Revision Letter RV1 dated March 19, 2013, EIR Revision Letter RV2, dated November 12, 2013 and the updated August 2013 Biological Resources section (3.4) of the EIR and Section 6.1 (Environmental Review) of the staff report, dated February 21, 2013, and

incorporated herein by reference, adverse environmental impacts are mitigated to the maximum extent feasible. Therefore, this finding can be made.

3.3 That streets and highways are adequate and properly designed to carry the type and quantity of traffic generated by the proposed use.

The project site is currently served by one driveway that connects to the south side of US Highway 101. Pursuant to a traffic study prepared by Associated Transportation Engineers (ATE) dated January 2012, the proposed project would not exceed county thresholds for intersection levels of service (LOS). US Highway 101 is a multi-lane, paved Highway, adequate to carry vehicles to the project site. Therefore US Highway 101 is adequate to serve the proposed project. The proposed project would include the construction of a private access road extending from the existing site entrance at US highway 101 to the proposed Ocean and Inland Estate development sites. This access road and driveways extending to the individual Estates would be constructed to County Fire Department engineering requirements, including width, material and slope requirements, and would be adequate for the proposed project.

Over the course of the approximately 24-month construction period, the applicant has estimated that approximately 25 workers per day would use US Highway 101 and the project driveway to access the site, generating an additional average of 50 ADT. Approximately 15 delivery and/or haul trucks would add 30 ADT; therefore, total construction trips would be equal to 80 ADT for 24 months of temporary construction related traffic impacts. This addition of construction-related project traffic would result in short-term less than significant impacts at the US Highway 101/project driveway intersection. Similarly, the addition of 80 ADT to US Highway 101 in the project vicinity would not result in a degradation of existing US Highway 101 operations. Roadway operations would remain within County and Caltrans standards and no adverse impacts are anticipated due to the short-term nature of construction. Placement of the fill cap associated with the utilities installation on the adjacent Gaviota Holdings property would require dump trucks to use US Highway 101, Hollister Avenue, and the Bacara resort access road to travel between the subject property and Gaviota holdings property. These roadways and intersections offer adequate line of sight, service levels, and storage capacity to accommodate this increased heavy truck traffic. In addition, MM-TR-1 (condition 53) requires preparation of a traffic control plan to further limit temporary construction traffic impacts. Therefore, streets and highways are adequate and properly designed to carry the type and quantity of traffic generated by the proposed use during the long term and also during short term construction activities and this finding can be made.

3.4 That there will be adequate public services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.

Access to the Ocean and Inland Estates would be provided by a new shared access driveway. The driveway would enter the site via the existing site entrance off of US Highway 101 at the east side of the property and extend west through the property to the Inland Estate. The driveway would then extend from the Inland Estate, over the UPRR (Union Pacific Railroad) tracks via a new bridge, to

the Ocean Estate. Water would be obtained from the Goleta Water District. The proposed project would include construction of two private water lines, an 8-10 inch potable line and a 4 inch reclaimed water line, extending from the existing Goleta Water District line to serve the Ocean and Inland Estates. The water line would be privately owned and designed to serve and provide adequate fire flows to the proposed residential and agricultural development on the ocean and inland lots. A Water Use Agreement was entered into by the applicant and the Goleta Water District in 1998. In addition, the Goleta Water District issued a definitive letter, dated September 15, 2004 providing committing to deliver water to the property. Sanitary service would be provided through private septic systems as approved by Environmental Health Services (EHS). EHS provided a condition letter, dated February 23, 2012, noting that drywell performance tests were provided which established the feasibility of wastewater disposal for the ocean and inland lots. Fire service would be provided by Santa Barbara County Fire and police protection would be provided by the Santa Barbara County Sheriff. Therefore, this finding can be made.

3.5 That the project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will not be incompatible with the surrounding area.

The project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood. Conditions 64, 67, 68, 69, 70 and 71 place restrictions on the hours of construction and construction parking and require designated staging and washout areas and implementation of erosion control best management practices in order to prevent short term construction impacts to the area and to preserve the health safety and comfort of the area. The project would provide easements to allow future public access to the site and beach below, providing a public benefit. The applicant's proposal to construct 1,600 feet of public trail would contribute to this benefit and would be consistent with applicable Coastal Land Use Plan and Coastal Act policies which encourage the provision of public access to coastal areas and the beach. The proposed project would not be incompatible with the surrounding area. Unauthorized public trails exist on-site and the proposed project would allow for public access to be formalized, increasing public safety when accessing the beach at this location while perpetuating the public trails in the area. The proposed waterline would serve the two proposed residences and accessory uses, which are principally permitted uses within the applicable zone district requiring water service. As discussed in finding 3.7 (below) and incorporated herein by reference, the proposed uses would be compatible with and subordinate to the scenic and rural character of the area. As discussed in finding 2.2.5, above, and incorporated herein by reference, the proposed development will be compatible with the established physical scale of the area. Therefore, this finding can be made.

3.6 That the project is in conformance with the applicable provisions and policies of this Article and the Coastal Land Use Plan.

As discussed in Section 6.2 and 6.3 of the staff report, dated February 21, 2013, the March 19, 2013 memo to the Planning Commission and the November 12, 2013 memo to the Planning and incorporated herein by reference, the proposed project is consistent with all applicable policies of the County Comprehensive

Plan, including the Coastal Land Use Plan, and with all requirements of the Article II Coastal Zoning Ordinance. Therefore, this finding can be made.

3.7 That in designated rural areas the use is compatible with and subordinate to the scenic and rural character of the area.

The site is rural in character (and zoned rural under the County Comprehensive Plan), consisting of a broad open terrace bisected by a number of drainages. Small groves of trees including eucalyptus, pines and cypress are clustered near the Ocean Estate development area and along portions of the coastal parcel near the coastal bluff. The homes would be one story in height and would not exceed the height of the existing trees on the project site. Both homes and all related structures are single story and would be designed to be subordinate to the existing landscape. The gentle slope of proposed roof forms would be consistent with the gently sloping nature of surrounding topography. The project would use natural building materials and colors compatible with the surrounding environment. The proposed 1,600 feet of public trail would be located near the southwestern corner of the property on the ocean lot. The trail would be unpaved, consisting of natural dirt or gravel and would be consistent with the rural nature of the existing site, which currently contains partially paved and unpaved trails. The proposed waterline would extend from the adjacent Gaviota Holdings (APN 079-200-005) property to and onto the proposed property. Once on the subject property, the line would attach to the bottom of an existing bridge that spans the UPRR tracks and would then follow the alignment of the proposed access road. During the first stretch of the line, from the adjacent property to the existing bridge, the line would be located within an earthen fill cap. This fill cap would be no more than 3 feet in height and would be re-vegetated with native species following construction. The remainder of the line would be located underground below the proposed access road. Therefore, the line would be obscured from view by vegetation or soils and would be minimally visible to the public. Therefore, the proposed uses would be compatible with and subordinate to the scenic and rural character of the area and this finding can be made.

3.8 That the project will not conflict with any easements required for public access through, or public use of the property.

No authorized easements for public access through the property or for public use of the property currently exist. The project will not conflict with any easements required for public access through, or public use of the property and proposes easements to allow additional public access through the property. Therefore, this finding can be made.

3.9 That the proposed use is not inconsistent with the intent of the zone district.

The property is zoned AG-II-100. The purpose of the Agriculture II district is to establish agricultural land use for large prime and non-prime agricultural lands in the rural areas of the County (minimum 40 to 320 acre lots) and to preserve prime and non-prime soils for long-term agricultural use. Agricultural uses have not occurred on the project site in more than 20 years and the site has never been farmed as a “stand alone” viable farming unit, but rather only as a part of the former Dos Pueblos Ranch. Class II prime (when irrigated) soils on-site are

disjunct in nature and constrained for farming due to the characteristics of the particular soil type (Diablo clay soils). Pursuant to the County's Weighted Point System for determining agricultural viability, neither the ocean nor inland parcel was determined to be agriculturally viable. This lack of viability is due to the parcel size, lack of a developed water supply, moderate agricultural suitability for crops, lack of existing agriculture, and inability to qualify for the agricultural preserve program. Therefore, it is unlikely that the property could be used for long-term agricultural use. However, the majority of the site would remain in open space (thereby preserving prime soils), the proposed project would include the planting of dwarf citrus orchards in 1.7 acre and 16.3 acre agricultural envelopes, and the project would not rezone or develop the site to prevent future agricultural use. Therefore, the project would be consistent with the intent of the zone district and this finding can be made.

ATTACHMENT B: CONDITIONS OF APPROVAL

- 1. Proj Des-01 Project Description.** This project is based upon and limited to compliance with the project description, the hearing exhibits dated November 20, 2013, and all conditions of approval set forth below, including mitigation measures and specified plans and agreements included by reference, as well as all applicable County rules and regulations. The project description is as follows:

Ocean and Inland Estates

The proposed Ocean Estate residence would be 5,806 (gross) square feet in size, with an attached 1,421 square foot garage/mechanical space, a detached 800 square foot guesthouse with attached 651 square foot garage, and a pool. Future structural development and earth disturbance associated with the proposed Ocean Estate would be limited to a 1.9-acre development envelope. The proposed Ocean Estate would also include designation of a 1.7-acre envelope which would allow agricultural activities such as orchards, row crops, and horse/livestock keeping. Except for fencing and utilities, no buildings, structures, or hardscape is permitted within the agricultural envelope. The maximum height of the proposed residence and garage is 20 feet and the maximum height of the proposed guest house and attached garage is 21 feet.

The proposed Inland Estate residence would be 7,326 (gross) square feet in size with an attached 1,837 square foot basement and garage/mechanical space, a detached 800 square foot guesthouse and a pool. Future structural development and earth disturbance associated with the proposed Inland Estate would be limited to a 2.5-acre development envelope. The proposed Inland Estate would also include designation of a 16.3- acre envelope which would allow agricultural activities such as orchards, row crops, and horse/livestock keeping. Except for fencing and utilities, no buildings, structures or hardscape is permitted within the agricultural envelope. The maximum height of all proposed Inland Estate development is 22 feet, and is designed to be a minimum of 11 feet, 10 inches below the road grade of Highway 101 to maintain public horizon and blue water views over the development.

Total project grading would include approximately 16,890 cubic yards (cy) of cut and approximately 13,280 cy of fill. One blue gum eucalyptus tree would be removed. Landscaping includes native and drought tolerant species including six 36-inch-box oaks and 4.7-acres of dwarf and/or semi-dwarf orchard trees. Only organic and biodegradable fertilizers and pesticides/herbicides shall be used on-site.

Services and Infrastructure

The Ocean and Inland Estates would be served by a new shared access driveway. The driveway would enter the site via the existing site entrance off of US Highway 101 at the east side of the property and extend west through the property to the Inland Estate. The driveway would then extend from the Inland Estate, over the UPRR (Union Pacific Railroad) tracks via a new bridge, to the Ocean Estate. The driveway would be 1.6 acres in total area.

The bridge would be 215 feet long and 17.25 feet wide and would be supported on either side by bridge embankments. Grading for the bridge embankments on the ocean lot would include approximately 110 cy of cut and 9,100 cy of fill, and for the Inland lot approximately 75 cy of cut and 3,160 cy of fill. Bridge abutments would be supported on a 3:1 slope on the inland lot and a 2:1 slope on the ocean lot. The bridge will be

constructed of weathered steel with wood rail cap and wood decking over a poured concrete deck. The applicant has received design approval and approval of a private easement for the bridge from UPRR.

Water would be obtained from the Goleta Water District. The proposed project would include construction of two private water lines, an 8 to 10 inch potable water line and a 4 inch reclaimed water line, extending from the existing Goleta Water District line to serve the Ocean and Inland Estates. Currently, the Goleta Water District service line terminates off-site near the Bacara Resort. ~~The~~ A private water line would be extended through an existing 20 foot easement across the adjacent Gaviota Holdings property (APN 079-200-005) to the project site. The water line would be privately owned and would serve the proposed residential and agricultural development on the ocean and inland lots. The complete water line to serve the Ocean and Inland Estates would be approximately 7,500 feet in length. Sanitary service would be provided through private septic systems as approved by Environmental Health Services. Fire service would be provided by Santa Barbara County Fire.

Public Access Dedications

The project includes a number of offers to dedicate (OTD) easements for both vertical and lateral public access and recreation facilities, contingent on approval of the proposed project as depicted on the Proposed Project and Open Space or Conservation Easement site plan. The proposed OTD includes:

1. A segment of the California Coastal Trail along the length of the ocean lot including a loop trail and lookout points. Portions of the Coastal Trail are defined as “Floating Trail” to allow for the best initial trail alignment. Approximately 1,600 linear feet of the total length of the California Coastal Trail on-site would be constructed by the property owner;
2. Vertical access to the beach from the California Coastal Trail at one of seven potential vertical beach access trail locations;
3. An access road from the existing site entry from Highway 101 to a parking lot for up to 20 vehicles (at one of two potential locations);
4. Pedestrian access from a parking lot and over the Union Pacific Railroad tracks from the inland lot to the Coastal Trail (at one of two potential alignments); and,
5. Access along the length of the property on the beach from the base of the bluffs to the mean high tide line.

The 1,600 lineal feet of California Coastal Trail constructed by the applicant will be located within a 20 foot easement and will be a multi-use trail consisting of a 6 foot wide decomposed granite path with two foot shoulders and low native vegetation plantings. Construction of this portion of the Coastal Trail will be completed concurrently with the installation of utility lines and will be fully completed prior to building permit issuance for the first residence constructed.

With the exception of 1,600 feet of Coastal Trail, which is proposed to be constructed by the applicant, the exact location of future trails, parking, vertical beach access and access over the UPRR tracks (including UPRR and PUC [Public Utilities Commission] easement and design approval) will be determined at a future date by the County of Santa Barbara.-The applicant (Brooks Street) will partner with the County of Santa Barbara to

negotiate the approval of the public easement with UPRR and the PUC across the UPRR tracks.

Open Space or Conservation Easement and Habitat Restoration

The project includes a proposed approximately 117 acre Open Space or Conservation Easement extending over both the ocean and inland lots from Eagle Canyon to Drainage #5 on the west as depicted on the Open Space Conservation Easement site plan (included as Attachment-H to the November 12, 2013 Staff Memorandum to the Planning Commission). Aside from construction allowed under the Open Space or Conservation Easement Management Condition, no development would occur within The Easement, in perpetuity. The proposed project includes habitat restoration as identified in the Conceptual Upland and Riparian Mitigation and Monitoring Plan (Dudek, January 2012). This restoration would occur within a 23.56 acre portion of The Easement.

Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

Gaviota Seals Watch

The proposed project includes the deposit of \$20,000 of seed money for the formation of a Gaviota Seals Watch volunteer group. The project applicant (Brooks Street) shall deposit the funds with the County of Santa Barbara. Release of the funds shall not occur unless and until the first Coastal Development Permit for the proposed project is issued and the Project approval is “final” and no longer subject to administrative or judicial challenge. The Project approval shall be deemed “final” when all administrative appeal periods have expired without an appeal having been filed; or when all statutes of limitation for judicial challenge to the Project approval have expired without litigation being filed; or, if litigation is filed, when a successful defense in such litigation has resulted in a final judgment upholding the Project approval.

2. **Proj Des-02 Project Conformity.** The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of the structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval thereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

Mitigation Measures from Revised 09EIR-00000-00003

3. **MM AES-1a.** All cut slopes excavated to reconstruct the existing access roadway shall be landscaped pursuant to specifications contained in a landscape plan with the goal of reducing the visibility and prominence of any exposed slopes and soils and shall mimic of native habitat forms on and around such slopes. Additionally, all grading of the project site as necessary to minimize visibility shall not involve the placement of fill having an

average depth of greater than 18 inches and a maximum depth of greater than 36 inches². The recontouring shall follow and extend the natural, underlying topography and upon completion, result in slopes that have a natural appearance and generally blend with the existing topographic landforms. **Plan Requirements and Timing.** Plans and procedures to address landscaping and grading requirements shall be incorporated into plans submitted to the County Planning and Development Department and subject to review and approval by CBAR. Plans shall be submitted to and approved by the County and CBAR prior to issuance of the Coastal Development Permits for each lot. **Monitoring:** The grading inspector shall ensure conformance with the provision on grading plans and in the field.

4. **MM AES-1b.** The applicant shall prepare and submit a landscaping plan to the County for review and approval. The landscaping plan shall include provisions for landscaping of the home sites as well as the berms supporting the private bridge between the Ocean and Inland Estates. In addition to plant species and layout, the landscape plan shall address maintenance of home site landscaping, berm landscaping, orchard plantings, and open space areas. The plan shall be consistent with the County-approved Conceptual Upland and Riparian Mitigation and Monitoring Plan and the terms of the Open Space Conservation Easement. The plan shall include maintenance provisions for ensuring that landscaping is maintained for the life of the project. The vegetation shall be maintained to ensure maximum screening of the Ocean and Inland Estates from US HWY 101 but shall protect public blue-water views. **Plan Requirements and Timing.** Plans and procedures to address these issues shall be incorporated into plans submitted to the County Planning and Development Department and shall be subject to review and approval by CBAR. Plans shall be submitted to and approved by the County and CBAR prior to issuance of the Coastal Development Permits for each lot. Landscaping of the bridge berms shall occur within two weeks of the completion of berm grading. **Monitoring.** Site plans shall be submitted to County Planning and Development and CBAR for review and consideration prior to of Coastal Development Permits. P&D Permit Compliance staff shall ensure compliance on site. Final occupancy of the proposed structures shall not be granted until site landscaping and orchards are installed.
5. **MM AES 1c.** The applicant shall plant a mix of dwarf and semi-dwarf citrus trees with a maximum height of approximately 10-feet (dwarf citrus) and 15 feet (semi-dwarf citrus), or other P&D-approved species consistent with agricultural uses common on the Gaviota Coast. The trees shall be planted within the proposed Agricultural Envelopes. Plantings shall follow the existing topography of the site and shall be maintained at a height below the grade of US Highway 101 to ensure mature trees do not obstruct blue water and horizon views. The trees shall be planted and maintained throughout the life of the project. The property owner shall replace new plantings as necessary throughout the life of the project. Terms for maintenance of the orchard shall be included in the landscape plan submitted to the County for review and approval. **Plan Requirements and Timing.** This requirement shall be shown on a landscape plan to be reviewed and approved by P&D prior to issuance of the Coastal Development permits for each lot. **Monitoring.** P&D compliance monitoring staff shall ensure tree installation and maintenance.

² This fill depth would not apply to utilities trenching or filling, or to the bridge berms.

6. MM AES-3a. Current and future proposed structures, including accessory structures and elements shall be subject to approval by the Board of Architectural Review (BAR) prior to issuance of a Coastal Development Permit. The application to the Board of Architectural Review shall include a plot plan showing any landscaping, finished building elevations, fencing, data showing the proposed color scheme, materials of construction, and a drawing to scale showing any signs to be erected, attached to, or painted on such structure. The Board of Architectural Review shall evaluate the following aspects of the project:

- Structures shall be sited and designed to preserve unobstructed broad views of the ocean from US Highway 101.
- Structures shall not be of an unsightly or undesirable appearance.
- Structures shall be clustered to reduce visual impacts.

Plan Requirements and Timing. Plans and procedures to address these issues shall be incorporated into plans submitted to the County Planning and Development Department and subject to review and approval by CBAR. Plans shall be submitted to and approved by the County and CBAR prior to issuance of the Coastal Development Permits for each lot. Submittals shall be consistent with the most current County Planning and Development BAR submittal requirements. **Monitoring.** P&D shall inspect prior to occupancy clearance.

7. AES-3b. All development on the project site shall occur within the approved development envelopes. All structures (including any ancillary structures that may be permitted within the Agricultural Zone) shall be considered part of the proposed project and therefore subject to all approved mitigation measures related to visual character, including height, color, and building material. **Plan Requirements and Timing.** This measure shall be implemented throughout the lifetime of the proposed project. Plans for additional structures shall be submitted to the County for review and approval. **Monitoring.** Compliance with project requirements shall be checked by P&D monitoring staff.

8. MM AES-3c. Approved and future structures on-site shall be one story and not be higher than 22 feet above natural or finished grade, which results in a lower building height, except for chimneys and rooftop antenna. All approved and future structures shall be sited within the development envelope and shall be of a height that is below the road grade of US Highway 101 to maintain public blue water views. Structures within shall be clustered to the maximum extent feasible. **Plan Requirements and Timing.** This measure shall be included on building plans submitted for County approval. Plans shall be submitted prior to issuance of Coastal Development Permit. **Monitoring.** Height of structures shall be checked by Building and Safety during frame/inspection.

9. MM AES-3d. Natural building materials and colors compatible with surrounding terrain (earth-tones and non-reflective paint) shall be used on exterior surfaces of all structures including water tanks and fences. Use of reflective glass, metal, paints, etc. shall be minimized. **Plan Requirements and Timing.** Materials shall be noted on building plans and shall be reviewed and approved by the Central Board of Architectural Review. Plans shall be submitted for review and approval by P&D and BAR staff prior to issuance of Coastal Development Permits. Structures shall be painted and all materials shall be in

place prior to Final Building Inspection. The applicant shall provide a copy of the CBAR-approved color and materials board with their Permit Compliance application. **Monitoring.** P&D compliance monitoring staff shall inspect and ensure compliance prior to Building Inspection Clearance.

10. MM AES-4. The Applicant shall ensure any exterior night lighting installed on the project is of low intensity, low glare design, minimum height, and shall be hooded to direct light downward onto the subject lot and prevent spillover lighting. The applicant shall install timers or otherwise ensure lights are dimmed after 10:00 PM. **Plan Requirements and Timing.** The applicant shall develop a Lighting Plan for CBAR approval incorporating these requirements and showing locations and height of all exterior lighting fixtures with arrows showing the direction of light being cast by each fixture. The lighting plan shall also incorporate the following elements:

1. Conserve energy and follow night sky lighting practices, generally conforming to the standards and recommendations of the International Dark-Sky Association (IDA) and the Illuminating Engineering Society of North America (IESNA);
2. Through design and installation, and permitted only within the building envelopes, use lamps that are fully shielded such that the lamp image is not directly visible beyond the area of illumination;
3. Through design and location within the building envelopes, avoid creating glare, light spillover outside of the building envelopes onto adjacent areas, or upward illumination into the night sky;
4. Use low intensity and low glare designs;
5. Use motion, light, and time sensors that minimize duration of use;
6. Ensure that all light poles, fixtures and hoods are constructed or coated with a non-reflective exterior finish;
7. Prohibit uplighting of landscape or structures; and
8. Minimize location of exterior lighting to that necessary for safety along driveways, roads, and parking areas. The driveway lighting shall be low intensity and indirect with on-demand switching to minimize nighttime light visibility from public viewing places.
9. Lighting shall be installed in compliance with this measure prior to Final Building Inspection Clearance.

Monitoring. P&D compliance monitoring staff shall review a Lighting Plan for compliance with this measure prior to Final Building Inspection Clearance and shall ensure that exterior lighting fixtures are installed consistent with their depiction on the final Lighting Plan.

11. MM BIO-2. Southern Tarplant and other Special Status Plant Communities Avoidance or Restoration. The utility corridor locations shall utilize existing roads and disturbed

areas to the maximum extent feasible. Trenching shall be accomplished by hand tools when working near sensitive plants. Prior to construction, the applicant shall survey and flag by a qualified biologist the alignment of the water lines. Where determined to be feasible by the project biologist, the utility corridor will be realigned ~~the corridor~~ to avoid impacts to sensitive plant species. Similarly, the public access easements throughout the site shall be surveyed for special status plant species and aligned specifically to avoid impacts, to the maximum extent feasible, to these special species. Special status plant species and communities to be avoided include Southern Tarplant, Creeping Spike Rush Marsh, Arroyo Willow Thicket, California Sagebrush Scrub, and Purple Needle Grass Grasslands. Any field revisions shall be plotted on a revised site plan submitted to Santa Barbara County Planning and Development (P&D) for review and approval.

Plan Requirements and Timing. Pre-construction surveys for the presence of any sensitive plant species must be completed, along with plans if necessary for the collection of seed from any individuals discovered, prior to ground disturbance. The revised plans depicting relocated water lines and the exact alignment of the proposed trails and other access improvements throughout the site shall be submitted to P&D for review and approval prior to issuance of grading permit. Individual sensitive species shall be indicated on the Map and on grading plans.

12. MM BIO-5. Utility Corridor and Coastal Trail Final Design. The utility corridor and coastal trail in proximity to the southern end of the wooden bridge, and future replacement of the existing bridge shall be designed to avoid direct impacts to isolated wetland #6 and the creeping spike rush marsh habitat. Avoidance will best be achieved by providing a 100 foot buffer (may be reduced to no less than 30 feet if a greater buffer is infeasible) from the outer edge of isolated wetland #6 for all construction and development activities outside of the designated utility/Coastal Trail corridor and by attaching the utility corridor infrastructure to the underside or side of the ~~wooden~~ bridge to cross the Union Pacific railroad tracks. The property owners for the ocean and inland lots shall be jointly responsible for construction and maintenance of the utilities. Should the County demolish the existing bridge and construct a replacement bridge, the County shall not be responsible for relocation of the utilities. The property owners for the ocean and inland properties shall be jointly responsible for relocation of the utilities prior to demolition of the existing bridge should demolition be proposed by the County. Prior to construction, orange construction fencing shall be placed by a qualified biologist around the outer edge of this wetland. The final design of utility corridor and coastal trail shall be plotted on a revised site plan submitted to P&D for review and approval. **Plan Requirements and Timing:** Orange construction fencing shall be in place prior to ground disturbance. The revised plans depicting the utility corridor and coastal trail alignment shall be submitted to P&D for review and approval prior to Coastal Development Permit issuance for development adjacent to wetland #6. **Monitoring:** P&D shall review and approve the final design prior to Coastal Development Permit issuance for development adjacent to wetland #6 to ensure that the isolated wetland #6 is avoided during construction and project development. P&D permit compliance and Building and Safety staff shall ensure that fencing is in place prior to and throughout construction.

13. MM BIO-6. Riparian Vegetation. The applicant shall submit a revised habitat restoration plan for site-specific restoration for loss of arroyo willow thicket resulting from the construction of the utility corridor. The draft habitat restoration plan call for creation of new riparian areas at a ratio of 3:1 in the vicinity of upper reaches of Drainage

#4, immediately adjacent to existing arroyo willow thicket riparian vegetation. The mitigation area would total 0.06 acre. The plan shall include the following measures:

- Protection and preservation of existing hydrologic and topographic features.
- Revegetation using only native endemic plant species.
- Non-native species, if present, shall be removed from the affected drainage.

Plan Requirements and Timing. The applicant shall submit the restoration plan to P&D for review and approval prior to issuance of grading permit. The plan shall be prepared by a P&D approved biologist. The plan shall be implemented after completion of access road improvements. **Monitoring.** P&D shall review and approve the restoration plan prior to issuance of grading permit and will monitor for subsequent implementation.

14. MM BIO-7. Pre-Construction Surveys. Pre-construction surveys for California red-legged frogs, tidewater goby, and other special-status aquatic species (such as western pond turtle) shall be conducted prior to construction activities associated with the utility corridor and the public access trail and stairway, no more than one week before construction begins. If any individuals of California red-legged frog or tidewater goby are found, the U.S. Fish and Wildlife Service shall be contacted and appropriate avoidance measures shall be taken to ensure their protection as recommended by the consulting biologist and approved by P&D. These measures shall include installation of exclusionary fencing to prevent California red-legged frog from entering the construction area, installation of orange construction fencing to mark the limits of where construction activities may safely take place, and the use of best management practices to prevent pollutants from entering the Eagle Canyon. The crossing of Eagle Canyon will be through the use of an elevated pipe bridge. **Post-Construction Use.** The post-construction efforts to protect California red-legged frog and tidewater goby shall include the use of open fencing to hinder direct access to the open water of Eagle Canyon, the posting of an educational and informational sign describing the sensitive habitat of the lagoon and open water with an explanation with the public shall refrain from disturbing the stream ecosystem. The design and signage content shall be submitted to P&D for review and approval prior to construction activities associated with the public access trail and beach access stairway. **Plan Requirements and Timing.** Orange construction fencing shall be in place prior to ground disturbance. The revised plans depicting the utility corridor and coastal trail alignment shall be submitted to P&D for review and approval prior to issuance of grading permit. **Monitoring.** P&D shall review and approve the construction protection measures prior to grading permit issuance to ensure that construction activities will avoid direct and indirect impacts to California red-legged frog, western pond turtle, and tidewater goby. The design for open fencing and educational signage shall be reviewed and approved by P&D prior to opening of the public access trail and beach access stairway.

15. MM BIO-8. The future construction of the public access stairway to the beach (if located within Eagle Canyon) and public parking lot can proceed only after all overwintering monarch roosts have dispersed in late winter or early spring. The applicant shall hire a County-qualified biologist prepare a monarch butterfly roosting/overwintering survey prior to the start of grading and construction. **Plan Requirements and Timing.** The monarch roosting/overwintering survey shall be submitted for review and approval by the P&D biologist and P&D permit compliance staff prior to issuance of grading permits. Construction plan notes shall state that construction shall be prohibited until such time that overwintering monarch roosts have dispersed in late winter/early spring. Said plans shall be submitted to P&D for review and

approval prior to issuance of grading/construction permit. **Monitoring.** P&D shall review and approve the construction protection measures prior to grading permit issuance to ensure that construction activities do not impact monarch butterfly trees. Permit compliance staff shall monitor construction on site.

- 16. MM-BIO-9a.** Setback. All structural development on the ocean lot (with the exception of the driveway) shall be located a minimum of 100 feet from the canopy of the Monterey Pine nesting tree identified in the 2013 survey period. The driveway and unoccupied landscape areas shall be located a minimum of 75 feet from the nesting tree canopy.

Plan Requirements and Timing: The reconfigured conceptual design for the ocean estate development (i.e. development footprint) shall be submitted for review and approval by P&D staff prior to issuance of the Coastal Development Permit for the ocean estate. The applicant/property owner shall be responsible for redesign and submittal. All project plans (e.g. architectural, grading/drainage, landscape) for the ocean estate development shall show the location of the nest tree canopy and associated 75 and 100 foot buffers.

- 17. MM-BIO-9b.** Nesting Season Restrictions. If grading or construction activities occur during the breeding season (i.e. February through August) the applicant/property owner for any proposed development on-site shall retain a qualified, County-approved biologist to conduct pre-construction bird surveys to avoid impacts to raptors, special status breeding birds and other nesting birds protected by the Migratory Bird Treaty Act. The survey shall include the area approximately 500 feet around construction work areas or to the limits of the property lines if they are closer than 500 feet from the work areas. If an active nest of a common migratory or resident bird species is located, a 300 foot buffer (i.e. no work zone) or greater shall be implemented as determined by the County-approved biologist. In the event that an active nest of any raptor or other special status breeding birds is observed within the construction work areas or within 500 feet of these areas, the applicant shall delay construction work until (a) after September 15; or (b) until continued monitoring demonstrates that the nest is vacated and juveniles have fledged; or (c) a buffer zone sufficient to prevent disturbance of nesting activities, as determined by P&D in consultation with California Department of Fish and Wildlife (CDFW) and/or U.S. Fish and Wildlife Service (USFWS) as appropriate, is implemented. Results of the surveys shall be provided to the County and CDFW/USFWS and shall include a description of any nests located and the measures implemented to avoid the nest sites.

Plan Requirements and Timing: The biologist shall conduct any pre-construction nest surveys prior to the start of grading and construction. Any required buffer zones shall be established prior to initiation of construction activities. **Monitoring.** The biologist shall document all pre-construction surveys and buffer zones in field notes and in a summary report provided to P&D permit compliance staff on a bi-weekly basis during construction activities.

- 18. MM BIO-10.** The applicant shall submit a revised Conceptual Upland and Riparian Mitigation and Monitoring Plan (dated January 2012) for the proposed restoration areas and a Conservation Easement Management Plan for the proposed conservation easement that provide for white tailed kite habitat enhancement and maintenance. The plan shall be subject to review and approval by the P&D biologist and shall be updated as follows:

1. Habitat Restoration. Restoration areas shall continue to include 4.56 acres of California sagebrush scrub, 0.11 acre of arroyo willow thicket, and 5.92 acres of

purple needlegrass grassland. The Upland and Riparian Mitigation and Monitoring Plan shall be revised such that 5.88 acres of the currently proposed 12.97-acre exotics-free buffer zone shall be seeded with native grasses that would provide 1:1 replacement of high quality white-tailed kite foraging habitat. Six (6) 36-inch box coast live oak trees and twenty (20) 1-gallon coast live oak saplings shall be planted in a location proximate to suitable foraging habitat as future potential nest trees. The trees shall be arranged so as to provide maximum cover or canopy area to enhance nesting potential for white-tailed kites.

2. **Restoration Area Maintenance.** The proposed 23.5-acre restoration area shall be managed in a manner that sustains high to moderate quality kite foraging habitat to provide for long-term maintenance of restoration acreages identified in item 1, above, and in order to prevent a reduction in grassland foraging habitat due to succession to other habitat types (e.g., scrub habitat). Specific management treatments (e.g. seasonal mowing, type conversion, focused herbicide application (i.e. spot spray) or other manipulation of vegetation) shall be identified in the Upland and Riparian Mitigation and Monitoring Plan. All other management techniques shall be given priority over herbicide use. The plan shall be revised to include this management goal.
3. **Conservation Easement Maintenance.** The proposed 91-acre conservation easement area shall be expanded to include Drainage 5 on the Ocean and Inland Lots, and the approximate 1.7-acre agricultural envelope proposed between Drainage 5 and 6 and just east of the access bridge on the Ocean Lot deleted, resulting in a 117-acre conservation easement area. The proposed 117-acre conservation easement area shall be managed for the life of the project in order to prevent the spread of invasive black mustard and to prevent the transition of the existing mosaic of herbaceous plants to shrubby areas opaque to kites. In addition to any other management practices, existing mustard fields within the 117-acre conservation easement shall be mowed annually, in spring (March to April), to a height of 1 foot prior to the flowering of mustard plants. A second mowing shall occur late in spring (May to June) to a height of 1 foot to remove late-blooming mustard or mustard plants that develop additional inflorescence stalks. In areas where flowering continues to be problematic, focused herbicide application may be required. Mowing shall not be required where it is determined infeasible or where it might conflict with the management objective of improving prey for white-tailed kites due to adjacency to sensitive habitats. This determination shall be made by the P&D Biologist in conjunction with the Project Biologist.
4. **Adaptive Management.** The revised Conceptual Upland and Riparian Mitigation and Monitoring Plan shall include an adaptive management plan to account for habitat alterations, natural or otherwise, that negatively affect white-tailed kite prey abundance or the ability of kites to access prey items within the conservation easement. The adaptive management plan is applicable to: 1) ensuring that performance criteria are achieved for the proposed 23.5-acre restoration area as detailed in the Conceptual Upland and Riparian Mitigation and Monitoring Plan and 2) ensuring fulfillment of the requirements of MM-BIO 10 Conservation Easement Maintenance relative to preventing the spread of black mustard and shrubby vegetation within the Conservation Easement, as applicable to maintaining adequate white tailed kite foraging habitat.

5. The Plan shall consider specific restoration treatments to improve habitat value for native rodents, including the California vole. A goal of the restoration and management plan shall be to enhance and maintain habitat characteristics favorable to such rodent populations. The Plan shall include qualitative performance measures.

Plan Requirements and Timing: The revised Conceptual Upland and Riparian Mitigation and Monitoring Plan shall be submitted for review and approval by the P&D biologist prior to Coastal Development Permit issuance. Restoration planting, seeding, irrigation, and protective fencing shall be in place prior to final occupancy clearance by the P&D compliance planner and Building and Safety staff. **Monitoring:** Monitoring reports prepared by the Project Biologist shall be submitted to the permit compliance planner on an annual basis in June for five years following completion of restoration activities. The Project Biologist shall schedule and attend an annual site visit with the permit compliance planner to review the status of site maintenance.

19. **MM BIO-11.** The applicant shall retain a qualified local biologist (approved by P&D) to review and approve the Landscaping Plan for this project. Species to be used in ornamental areas such as entrances, windrows, yards, agricultural use areas and development envelopes, shall be appropriate for their intended use and shall be selected to minimize the potential for invasiveness or other adverse effects on nearby native vegetation. In order to protect the genetic integrity of the native plant populations on the undeveloped portions of the subject property, the Landscape Plan shall prohibit the use of non-locally collected native plants and seed materials for any native species used within or adjacent to open space areas (including plantings proposed for habitat/buffer restoration, native grassland mitigation, and landscape plantings outside perimeter fencing). The Landscape Plan shall also prohibit the planting of any invasive, exotic plant species as identified by the California Invasive Plant Council (Cal-IPC). Wherever native species are specified for plantings or seeding, all seed or plant material shall come from sources in the Dos Pueblos Canyon or Eagle Canyon watersheds or, if not available, coastal Santa Barbara County. **Plan Requirements and Timing.** The applicant has submitted a landscape concept plan that identifies general goals and features of landscaping and hardscaping for developed areas. Landscape Plans for future development shall be reviewed and approved by the P&D Staff Biologist. The applicant shall use native, locally collected plant species (coastal Santa Barbara species or other non-invasive plant material) for landscaping purposes. **Monitoring.** P&D and a qualified local biologist approved by the County shall monitor Plan compliance throughout the performance period, as appropriate.

20. **MM BIO-12.** Harbor Seal Haulout. The County or other public agency or non-government organization constructing, operating, or maintaining the vertical coastal access point shall prepare and implement a harbor seal protection/restricted access implementation plan. The plan shall include, but not be limited to, the following measures:

- Vertical access from the bluff top to the beach shall be restricted to the eastern portion of the Ocean Estate within the floating easement proposed as part of the project. Specifically, should vertical access to the beach be proposed at drainage 4 or west of drainage 4 on the subject property, the top of the stairway shall be

closed during the harbor seal pupping/breeding season (e.g., February 1 to May 31).

- No construction of the vertical access stairway shall occur during the harbor seal pupping/breeding season (e.g., February 1 to May 31) should vertical access to the beach be proposed at drainage 4 or west of drainage 4 on the subject property.
- Access to the beach shall be closed 300 yards in each direction (i.e., north and south) of the harbor seal haulout during the harbor seal pupping/breeding season (e.g., February 1 to May 31).
- Signs informing users of access restrictions and relevant requirements of the Marine Mammal Protection Act shall be posted at the parking area, vertical access point, beach, and other appropriate locations.
- The County shall encourage and support the formation of a Gaviota Seals Watch similar to the Carpinteria Seals Watch.

Plan Requirements and Timing. The County or other implementing entity shall submit the seal haulout protection/restricted access implementation measures to P&D for review and approval prior to construction of the vertical coastal access point (stairway). The plan shall be prepared by a P&D approved biologist in consultation with the National Marine Fisheries Service and the California Department of Fish and Game. The agency or organization constructing, operating, or maintaining the vertical beach access stairway shall be responsible for ensuring compliance with the approved harbor seal protection/restricted access implementation plan. **Monitoring.** P&D shall review and approve the final design prior to grading permit issuance to ensure that the required signage is correctly installed prior to construction and project development.

21. MM BIO-13. Public Information. The applicant, County, or other implementing entity shall post information at the trailhead of the future public coastal access trail, at the observation lookout, and the top of the beach access stairway, informing visitors that no off-leash pets are allowed on the trail and beach, and that the beach access is closed pursuant to MM-BIO-12 during the harbor seal pupping/breeding season (e.g., February 1 to May 31). Other activity restrictions or beach access closure dates may be approved by P&D with appropriate supporting biological information. The purpose of the off-leash pet restriction and closure period is to minimize harassment and adverse effects to the harbor seal haul-out area and to minimize the effects of visitor use on the plants and animals found in the Naples Reef and adjacent marine and beach habitat, including Southern sea otters. **Plan Requirements and Timing.** The County or other implementing entity shall submit plans for the proposed public information, and proposal for securing the beach access stairway during times when access is prohibited. Responsibility for supervising access and communicating the access restrictions to the public shall be borne by the applicant or subsequent public access manager. **Monitoring.** P&D and a qualified local biologist approved by the County shall monitor compliance throughout the performance period, as appropriate.

22. MM BIO-14. Replacement trees for removal of non-native mature trees. The applicant shall plant six coast live oaks (*Quercus agrifolia*) to replace removal of three non-native trees from the project site. To address the temporal loss of potential perch/nest sites, replacement trees shall be 36-inch box trees with approximate overall heights of 12 to 14 feet. Planting locations shall be incorporated into the Conceptual Upland and Wetland Mitigation and Monitoring Plan for the Paradiso del Mare Residential Project,

specifically within Drainage 4 and/or Drainage 5. Irrigation and maintenance criteria shall also be included in the Conceptual Upland and Wetland Mitigation and Monitoring Plan for the Paradiso del Mare Residential Project. All mitigation trees shall be monitored for a period of not less than 5 years. During Years 1 and 2, monitoring shall occur quarterly. During Years 3 through 5, monitoring shall occur twice annually. One annual monitoring report shall be submitted to the County by the applicant for each year of the five-year monitoring period. The reports shall address tree survival/mortality totals, site observations, and any corrective actions necessary to promote tree health. In the event that the tree survival total falls below six trees prior to the completion of the five-year monitoring period, the applicant shall replant to reach the six-tree survival minimum with 36-inch box coast live oak trees. Mitigation trees planted for tree losses occurring during the five-year monitoring period shall also be monitored for five years, with annual reporting to the County on tree health/survival. Where development encroaches into the root or canopy zone of retained trees, each affected tree shall be monitored annually for a period of not less than five years. An annual monitoring report shall be submitted to the County by the applicant for each of the five years, concurrent with the submittal of the monitoring report for planted mitigation trees. Should any of these trees be lost or suffer worsened health or vigor as a result of the proposed development, the applicant shall mitigate the impacts at a 5:1 ratio with seedling sized trees. Mitigation planting shall occur annually, if necessary, based on the results of the annual monitoring reports. Mitigation trees planted for tree losses occurring during the five-year monitoring period shall also be monitored for five years, with annual reporting to the County on tree health/survival. **Plan Requirements and Timing.** The applicant shall submit plans for the Conceptual Upland and Wetland Mitigation and Monitoring Plan for the Paradiso del Mare Residential Project that incorporates the replacement tree plantings for review and approval by the County. Annual reports shall be submitted to the County for a minimum of five years. **Monitoring.** P&D shall review and approve the final tree planting design prior to grading permit and shall ensure that the required replacement trees are planted after construction

23. **MM BIO-17a. Rodenticides.** No rodenticides shall be used within the Open space and Conservation Easement or outside of the development envelopes for the Ocean and Inland Estates. Within the development envelopes, anticoagulant rodenticides are prohibited, however, safe-trapping and proper disposal of noxious rodent pests such as black rat or other non-native invasive rodent species, is permitted. Native rodents shall be safely transferred to the conservation easement area and released. **Monitoring:** Property owners shall keep records from extermination contractors demonstrating that the contractors hired for management of rodents use methods specified under this condition. Records shall be made available to P&D staff upon request.
24. **MM BIO-17b. Night lighting limitations.** The applicant will design and implement a lighting plan with the following elements:
- Conserve energy and follow night sky lighting practices, generally conforming to the standards and recommendations of the International Dark-Sky Association (IDA) for rural setting;
 - Exterior night lighting will be of low intensity, low glare design, minimum height, and shall be fully hooded and shielded to direct light downward, such that lamp usage is not directly visible beyond the area of illumination;
 - Exterior lighting shall only be permitted within the development envelopes;
 - Motion, light, and time sensors shall be used that minimize duration of use and 24-hour security lighting shall be avoided;

- Uplighting of landscaping or structures shall be prohibited;
- Locations of exterior lighting shall be minimized to that necessary for safety along driveways and parking areas. The driveway lighting shall be low intensity and indirect with on-demand switching to minimize night light visibility from public viewing places.

Plan Requirements and Timing. All exterior lighting fixtures, with an arrow showing the direction of light being cast by each fixture, and the height of fixtures will be depicted on a lighting plan to be reviewed and approved by P&D prior to building permit for future residential development. **Monitoring.** P&D will review a lighting plan for compliance with this measure prior to approval of a Coastal Development Permit. Permit Compliance will inspect structures upon completion to ensure that exterior lighting fixtures have been installed consistent with their depiction on the final lighting plan.

- 25. MM BIO-18.** Post-construction Coastal Trail Use. The post-construction efforts to protect white-tailed kite nesting habitat will include the posting of educational and informational signage describing the sensitive nature of the nesting habitat for white-tailed kite and identifying trail use limitations. The signage will be located outside of the nesting area and shall explain why the public shall refrain from disturbing the avian breeding ecosystem. The design and signage content shall be submitted to P&D for review and approval prior to construction activities associated with the public access trail. Use of the Coastal Trail will be from dawn to dusk only. Yearly surveys shall occur for white-tailed kite nesting for up to five years following the establishment of trail use. Surveys will be the responsibility of the implementing entity (e.g. County, non-profit organization) and shall be completed by a County-qualified biologist. Surveys shall occur between mid-February to early March as determined by the surveying biologist. If active nests are found, measures shall be taken by the implementing entity (e.g. County, non-profit organization) as necessary to protect nests. Alternate trail connections around documented, active kite nest sites shall be used if available. If alternate trail connections are not available, the use of trails (during the nesting season if nesting white-tailed kites are present) may be limited.

Requirements to protect future nests adjacent to the Coastal Trail shall be determined by the County-qualified surveying biologist in consultation with the County or other implementing entity. Because human tolerance by white-tailed kites varies and because kites are known to become acclimated to human activity over time, required measures will be based upon yearly recommendations provided by the surveying biologist. At three years following establishment of trail use, the surveying biologist shall determine whether annual surveys for nests remain appropriate or whether the surveys should cease.

In no case shall annual surveys be required after five years following establishment of trail use. Depending upon the date any nests are determined to be active, and at the discretion of the County-qualified biologist, an end-of-season nesting survey shall be conducted to determine when measures to protect nesting habitat adjacent to the trail can be discontinued. **Plan Requirements and Timing.** The plans depicting the coastal trail alignment and the design for the educational signage shall be submitted to P&D for review and approval prior to issuance of grading permit. **Monitoring.** P&D shall review and approve the design for open trail fencing and educational signage prior to opening of the public access trail.

- 26. MM CR-1a.** Prior to placement of the fill cap, a data collection program shall be implemented at CA SBA-2441. The data collection shall be preceded by definition of the site's boundaries where the utility line and public access corridor enter and exit the site,

in order to determine the appropriate amount of sampling. The number and interval of excavation units shall be determined in consultation with the P&D Archaeologist, based on the results of the boundary testing. Data collection shall include mapping of surface artifacts, collection of functionally or temporally diagnostic tools and debris, and excavation of samples from within the area to be filled as well as adjacent site areas for comparative purposes. Cultural materials collected from the site shall be processed and analyzed in the laboratory according to standard archaeological procedures. The age of the remains shall be determined using radiocarbon dating and other appropriate procedures; lithic artifacts, faunal remains, and other cultural materials shall be identified and analyzed according to current professional standards; prior archaeological collections from the site shall be included in the comparative analysis. The significance of the site shall be evaluated according to the criteria of the CRHR, and the cultural resource record shall be updated to reflect the results of the investigation; such results also shall be presented in a technical report following the standards of the California Office of Historic Preservation publication “Archaeological Resource Management Reports: Recommended Content and Format” (<http://ohp.parks.ca.gov/pages/1054/files/armr.pdf>). Upon completion of the work, all artifacts, other cultural remains, records, photographs, and other documentation shall be curated at the Repository for Archaeological and Ethnographic Collections of the University of California, Santa Barbara, or another facility approved by P&D. All fieldwork, analysis, report production, and curation shall be fully funded by the applicant. **Plan Requirements and Timing.** All work shall be completed by a P&D-approved Registered Professional Archaeologist and shall be funded by the applicant; a Chumash tribal representative shall monitor all excavation. Upon completion of fieldwork, the archaeologist shall supply a brief report to P&D indicating that the fieldwork has been completed satisfactorily and providing any additional recommendations. All fieldwork shall be completed and the results of the program shall be reviewed and approved by P&D prior to issuance of permits for placement of the fill cap. All recommendations in the report shall be implemented as approved. **Monitoring.** P&D shall review and approve the study and Permit Compliance staff shall ensure that approved recommendations are carried out in the field.

27. MM CR-1b. Following completion of the fieldwork described in mitigation measure MM CR-1a, geotextile matting and clean, culturally sterile, chemically neutral fill shall be deposited across the specified portion of the site as follows:

1. Existing vegetation along the proposed water line corridor shall be removed by hand equipment, instead of by motorized vehicles.
2. A County-approved archaeological and Native American monitor shall be retained to observe removal of the vegetation within the archaeological site boundaries.
3. After removal of surface vegetation, a geo-textile fabric shall be laid over the ground surface throughout the corridor where fill soils are proposed.
4. Imported soils shall be placed on top of the geo-textile fabric. The soils shall be chemically inert (i.e., not acidic) such that any potential for leaching into the underlying archaeological deposits is minimized. The pH of the fill soils shall be tested prior to their placement on top of archaeological site areas.
5. Placement of fill soils on top of the geo-textile fabric shall be done in no greater than 18-inch lifts with rubber-tired heavy equipment, such that the equipment only encroaches within the fill soil corridor after the initial fill soil lift is placed.

6. Placement of the geotextile fabric and top 18 inches of fill soils on top of the geotextile fabric shall be monitored by a County-qualified archaeologist and local Native American observer.
7. A pre-construction meeting shall be held with the contractor, County-qualified archaeologist, and Native American observer to communicate protocols for undertaking this activity.

Plan Requirements and Timing. A P&D-approved archaeologist and Chumash representative shall monitor fill placement. The conditions for monitoring and treatment of discoveries shall be printed on all building and grading plans. Prior to issuance of CDHs, the applicant shall submit a contract or Letter of Commitment with the archaeologist. The contract must include a project description and scope of work, and shall be prepared, executed, and submitted to P&D for review and approval. **Monitoring.** Permit Compliance staff shall confirm monitoring by archaeologist and Building and Safety Division grading inspectors shall spot check field work.

28. **MM CR-1c.** The applicant shall re-vegetate the fill soil overlying the utilities easement with an appropriate mix of native species. This re-vegetation will occur after final soil compaction has been completed. **Plan Requirements and Timing.** The applicant will prepare a re-vegetation plan, specifying which plants will be used and in what quantities, and submit this plan to P&D. P&D will review and approve this plan before issuance of the required CDH. **Monitoring.** Permit Compliance staff will confirm that re-vegetation efforts conform to the approved re-vegetation plans and that re-vegetation efforts are successful. This mitigation will only be considered complete when revegetation is successful and vegetation persists for more than one year. Otherwise, additional efforts by the applicant will be required to complete the mitigation.
29. **MM CR-1d.** Where the utility corridor and the proposed future Coastal Trail are aligned, the applicant shall design and engineer the utility corridor, including appropriate compaction of all fill soils to the standard required to accommodate future construction of the Coastal Trail. All necessary engineering methods to protect the underlying cultural resources (refer to Section 3.5 Cultural Resources of the Final Revised EIR, 09EIR-00000-00003) shall be utilized. **Plan Requirements and Timing.** The applicant shall prepare a compaction plan for the areas of the utility corridor that overlap with the Coastal Trail easement, and submit this plan to P&D and the County Parks and Public Works Departments. This plan shall specify the engineering techniques that shall be used to protect the underlying cultural resources. P&D and a County-approved archaeologist will review this plan to determine whether specified measures are sufficient to protect archaeological resources and support future construction of the Coastal Trail. This plan must be certified by P&D prior to issuance of any permits for work within the utilities easement. **Monitoring.** The Grading Inspector shall confirm that identified engineering techniques are used when placing and compacting the fill soil.
30. **MM CR-2a.** A buffer of 100 feet around the previously mapped boundaries of archaeological site CA SB-1322 shall be incorporated into the project design as unbuildable open space where no grading, construction, utility placement, landscaping, or other ground disturbance or development can occur. This area shall be seeded with shallow-rooted native vegetation to stabilize the site, protect it from erosion, and obscure the surface so that casual artifact collection or deliberate looting by residents and visitors can be avoided. During construction, the archaeological site and 100-foot buffer area shall be temporarily fenced with chain link flagged with color or other material

authorized by P&D. **Plan Requirements and Timing.** P&D shall receive, review, and approve final plans prior to approval of CDHs. Security shall be posted and fencing installed prior to issuance of building permits. Site shall be seeded during the rainy season to optimize the chances of successful sprouting. Permit Compliance staff will confirm that seeding efforts are successful. This mitigation will only be considered complete when seeding is successful and vegetation persists for more than one year. Otherwise, additional efforts by the applicant will be required to complete the mitigation. **Monitoring.** Permit Compliance staff shall verify installation of fencing by reviewing photo documentation or by site inspection prior to approval of grading permits, and shall ensure fencing remains in place throughout grading and construction through site inspections. Permit Compliance staff shall also inspect site to ensure installation and maintenance of plantings according to plan and sign off release of performance security when appropriate.

31. **MM CR-2b.** The final plans shall include a notation designating the known archaeological site as unbuildable area where no grading, construction, utility placement, landscaping, or other ground disturbance or development can occur. The area shall not be identified as an archaeological site on the plans. **Plan Requirements, Timing and Monitoring.** P&D shall receive, review, and approve final plans prior to issuance of CDHs.
32. **MM-CR-3a.** Prior to placement of the fill cap, an extended Phase I presence-absence testing program shall be implemented at eastern and western margins of CA-SBA-76 along the 20 foot wide utility easement corridor. Testing shall begin 200 feet outside of the currently mapped site boundaries and proceed toward the site until cultural materials are identified. Upon discovery of cultural materials, presence/absence testing shall cease and a 100 foot buffer established outward from the point of discovery. The fill cap referenced in mitigation measure CR-3d shall be placed along the utility easement from 100 feet east to 100 feet west from the newly identified site boundaries. The applicant shall include a notation on the final plans designating the buffer as unbuildable area. The area shall not be identified as an archaeological site on the plans. **Plan Requirements Timing.** P&D shall receive, review, and approve final plans prior to approval of CDHs. **Monitoring.** All work shall be conducted by a County-qualified archeologist and shall be monitored by a Native American observer. Permit Compliance staff shall spot check fieldwork.
33. **MM-CR-3b.** Prior to initiation of the extended Phase I presence-absence testing program described in mitigation measure MM CR-3a the applicant shall fund additional consultations with the Santa Ynez Tribal Elders Council and other interested Native American representatives to ensure their concerns are taken into account during the course of the project. **Plan Requirements and Timing.** The additional consultations shall be completed prior to issuance of the first Coastal Development Permit for the project. Upon completion of consultation, the archaeologist shall supply a brief report to P&D indicating that the work has been completed satisfactorily and providing any additional recommendations. **Monitoring.** P&D shall monitor compliance with this requirement and ensure its results are incorporated into the final cultural resource reports.
34. **MM CR-3c.** The applicant shall fund a P&D-qualified ethnohistorian to prepare an ethnohistory and descendant genealogy of the archaeological site area. **Plan Requirements and Timing.** The ethnohistory and genealogy shall be undertaken prior to issuance of the first Coastal Development Permit for the project. **Monitoring.** The

ethnohistory shall be submitted for review and approval by the P&D Archaeologist. P&D shall monitor compliance with this requirement and ensure its results are incorporated into the final cultural resource reports.

35. MM CR-3d. Following completion of the fieldwork and consultations described in MM CR-3a, 3b, and 3c, above, geotextile matting and clean, culturally sterile, chemically neutral fill shall be deposited across the specified portion of the site, as follows:

1. Existing vegetation along the proposed water line corridor shall be removed by hand equipment, instead of by motorized vehicles.
2. A County-approved archaeological and Native American monitor shall be retained to observe removal of the vegetation within the archaeological site boundaries.
3. After removal of surface vegetation, a geo-textile fabric shall be laid over the ground surface throughout the corridor where fill soils are proposed.
4. Imported soils shall be placed on top of the geo-textile fabric. The soils shall be chemically inert (i.e., not acidic) such that any potential for leaching into the underlying archaeological deposits is minimized. The pH of the fill soils shall be tested prior to their placement on top of archaeological site areas.
5. Placement of fill soils on top of the geo-textile fabric shall be done in no greater than 18-inch lifts with rubber-tired heavy equipment, such that the equipment only encroaches within the fill soil corridor after the initial fill soil lift is placed.
6. Placement of the geotextile fabric and top 18 inches of fill soils on top of the geo-textile fabric shall be monitored by a County-qualified archaeologist and local Native American observer.
7. A pre-construction meeting shall be held with the contractor, County-qualified archaeologist, and Native American observer to communicate protocols for undertaking this activity.

Plan Requirements and Timing. A P&D-approved archaeologist and Chumash representative shall monitor fill placement. The conditions for monitoring and treatment of discoveries shall be printed on all building and grading plans. Prior to issuance of CDHs, the applicant shall submit a contract or Letter of Commitment with the archaeologist. The contract must include a project description and scope of work, and shall be prepared, executed, and submitted to P&D for review and approval. **Monitoring.** Permit Compliance staff shall confirm monitoring by archaeologist and Building and Safety Division grading inspectors shall spot check field work.

36. MM CR-3e. The applicant shall re-vegetate the fill soil overlying the utilities easement with an appropriate mix of native species. This re-vegetation will occur after final soil compaction has been completed. **Plan Requirements and Timing.** The applicant will prepare a re-vegetation plan, specifying which plants will be used and in what quantities, and submit this plan to P&D. P&D will review and approve this plan before issuance of the required CDH. **Monitoring.** Permit Compliance staff will confirm that re-vegetation efforts conform to the approved re-vegetation plans and that re-vegetation efforts are successful. This mitigation will only be considered complete when revegetation is successful and vegetation persists for more than one year. Otherwise, additional efforts by the applicant will be required to complete the mitigation.

37. MM CR-4. A buffer of 100 feet around the boundaries of archaeological sites CA-SBA-1323, CA SBA-2440 and CA SBA-2442H shall be defined and incorporated into

the project design as unbuildable open space where no grading, construction, utility placement, landscaping, or other ground disturbance or development can occur. The applicant shall include a notation on the final plans designating the known archaeological sites as unbuildable area. The area shall not be identified as an archaeological site on the plans. **Plan Requirements Timing and Monitoring.** P&D shall receive, review, and approve final plans prior to approval of CDHs. Monitoring. Permit Compliance staff shall spot check fieldwork.

- 38. MM CR-5.** The applicant shall retain a P&D-qualified archaeologist and a Native American consultant to monitor all earth disturbances within the Ocean and Inland Estate development envelopes to ensure that previously unidentified buried archaeological deposits are not inadvertently exposed and damaged. In the event archaeological remains are encountered during grading or other earth disturbance, work in the vicinity shall be stopped immediately and redirected to another location until a P&D qualified Registered Professional Archaeologist and Native American representative are retained by the applicant to conduct a Phase 2 investigation and evaluate the significance of the find pursuant to County Archaeological Guidelines. If remains are found to be significant, they shall be subject to a Phase 3 mitigation program consistent with County Archaeological Guidelines and funded by the applicant. **Plan Requirements and Timing.** The conditions for monitoring and treatment of discoveries shall be printed on all building and grading plans. Prior to issuance of CDHs, the applicant shall submit a contract or Letter of Commitment with the archaeologist. The contract must include a project description and scope of work, and shall be prepared, executed, and submitted to P&D for review and approval. **Monitoring.** Permit Compliance staff shall confirm monitoring by the archaeologist and Building and Safety Division grading inspectors shall spot check field work.
- 39. MM EN-1a.** The applicant shall comply to the maximum extent feasible with all adopted County policies regarding energy consumption, such as:
- Incorporation of cost-effective, renewable, non-depleting energy resources into the project design, wherever possible;
 - Site and building design to avoid unwanted heat gain from solar exposure. Features that provide shading at suitable times of the day and year generally shall be “passive” or automatic, avoiding the need for occupants to regularly monitor or adjust them; and
 - Include solar panels in building design to heat spa and swimming pool areas.
- 40. MM EN-1b.** Construction vehicles shall be turned off when not in use to avoid leaving in idling position. Construction vehicles shall be left on site for the duration of construction to avoid wasteful or inefficient use of gasoline. **Plan Requirements and Timing.** The applicant will submit an energy efficiency plan to P&D outlining the measures they will take to minimize wasteful use of non-renewable resources. **Monitoring.** Permit compliance staff shall confirm with field visits that energy-conserving measures are used during construction and incorporated into the final project design.
- 41. MM FP-1.** The applicant shall pay development impact mitigation fees (DIMFs) to the Santa Barbara County Fire Department that would be directed toward the eventual construction of a new fire station. Required mitigation fees shall be as determined by County-adopted mitigation fee resolutions and ordinances and applicable law. **Plan Requirements and Timing:** Fire DIMFs shall be paid to the County Fire Department

prior to Final Building Inspection and shall be based on the fee schedules in effect when paid. **Monitoring:** Building and Safety staff shall ensure payment of fire DIMFs prior to Final Building Inspection.

- 42. MM FP-2a.** Landscaping for the development envelopes will incorporate the recommendations presented in the Applicant's VMP, consistent with County Fire Department standards. **Plan Requirements and Timing.** The final landscape plan shall define precisely the final disposition of existing trees, as well as locations and types of new plantings to allow for expedient review and approval by P&D and the Fire Department prior to approval of any CDH. The plans shall incorporate language and illustrations such as those found in Goleta Water District and Santa Barbara Botanical Garden publications advocating low water use plantings. Landscape plan components shall be reviewed prior to approval of any CDH. Landscaping shall be installed in accordance with the approved landscape plan prior to final inspection. **Monitoring.** Permit compliance staff shall verify the installation of the required landscaping in the field.
- 43. MM FP-2b.** For any existing trees within 100 feet of structures that are retained, all dying and diseased branches shall be removed. A certified arborist shall prepare a report detailing the disposition and condition of all existing trees within the development envelope. **Plan Requirements and Timing.** The final landscape plan shall define precisely the final disposition of existing trees as well as locations and types of new plantings to allow for expedient review and approval by P&D and the County Fire Department prior to CDH approval. Plan components shall also be reviewed prior to approval of any CDH. Recommendations of the approved arborist report shall be implemented prior to final inspection. **Monitoring.** P&D and Permit Compliance staff shall review the arborist's report and verify the required tree maintenance in the field.
- 44. MM FP-2c.** The following fire prevention methods shall be used for all proposed and future structures:
- a. Building materials for all structures including residences, fences, and accessory structures shall be constructed of fire resistant materials.
 - b. P&D Building & Safety Class A or B roofing (i.e., non-combustible tile or asphalt composite shakes) shall be required for all future on-site structures.
 - c. Spark arresters shall be required for wood burning fireplaces.
 - d. Private decks and structural overhangs proposed for all new structures shall be constructed with fire retardant materials or heavy timber.
 - e. Structures shall be fully equipped with sprinklers.

Plan Requirements and Timing: Where appropriate, the fire prevention measures shall be graphically depicted on grading and building plans. Measures shall be installed prior to final inspection. **Monitoring.** P&D building inspectors shall site inspect during construction.

- 45. MM FP-2d.** Adequate Fire Department structural access requirements shall be provided. **Plan Requirements and Timing:** Access routes shall be by all-weather surface roads and shall be submitted by the applicant for review and approval by the County Fire Department prior to issuance of a CDH. Primary access shall be installed during initial grading and secondary access shall be completed prior to final inspection. **Monitoring.** Access shall be reviewed and approved by P&D and County Fire

Department prior to issuance of a CDH. The Fire Department and Permit Compliance shall ensure compliance through site inspections.

- 46. MM FP-2e.** The applicant shall provide an adequate number of 750-gallon per minute fire hydrants as determined by the County Fire Department. **Plan Requirements and Timing:** Prior to approval of a CDH, the applicant shall meet with the County Fire Department to review placement of additional fire hydrants throughout the site. Required hydrants shall be installed prior to final inspection. **Monitoring.** Fire Department shall ensure compliance prior to final inspection.
- 47. MM GEO-1.** The project shall be designed to earthquake standards in accordance with applicable sections of the California Building Code and County of Santa Barbara Building Code adopted amendments. Required site-specific and plan-specific geotechnical investigations shall be performed at the site. The recommendations for site preparation, grading, backfill, and foundations developed during the site-specific geotechnical investigation shall be incorporated into the project design. **Plan Requirements and Timing.** Prior to plan check review by P&D, the applicant shall submit building plans indicating building standards to the satisfaction of the County Building and Safety Division. **Monitoring.** Building inspectors shall site inspect prior to issuance of occupancy clearance.
- 48. MM GEO-2.** Soils engineering design recommendations addressing expansive soils and differential settlement in the site-specific soils engineering reports (Earth Systems Pacific for the Ocean Estate and Inland Estate, 2007) shall be incorporated into the project design in accordance with applicable sections of the California Building Code and County of Santa Barbara Building Code adopted amendments. **Plan Requirements and Timing.** The site-specific investigation of soils conditions and foundation recommendations shall determine the extent of any landslide deposits and unstable soils on each lot to be developed. The report shall document either that the proposed structures and improvements will be located outside of any landslide areas or that remedial grading or foundation designs will provide suitable development conditions through the removal of unstable soils. Recommendations from the soils investigations shall be incorporated into grading and foundation designs as appropriate. Site-specific and plan-specific geological and/or soils engineering reports shall be submitted and approved, prior to approval of building permits for the proposed Ocean and Inland Estates. **Monitoring.** P&D's Building and Safety Division and Public Works shall review reports and plans. Permit Compliance shall ensure compliance with plans. Grading inspectors shall monitor technical aspects of the grading activities.
- 49. MM HAZ-1.** A Remedial action plan (RAP) shall be implemented by ARCO/BP and the property owner with oversight by the County Public Health Department Hazardous Materials Unit, in accordance with all applicable regulatory guidelines. Results of the site assessment shall be used to develop remedial alternatives and ultimately an updated RAP, including mitigation for potential secondary impacts such as dust emissions; disturbance to sensitive ecosystems (e.g., wetlands); and worker health and safety hazards. As a part of the Remedial Action Plan, and prior to Coastal Development Permit issuance for project development, Arco/BP shall submit a vapor monitoring work plan to Santa Barbara County P&D for the three wells in the immediate vicinity of the development envelope. The plan shall include vapor sampling methods, protocol and frequency, proposed action levels for chemicals of potential concern (e.g., methane), reporting requirements, and contingencies for vapor mitigation if needed. The work plan

shall be approved prior to implementation. County Public Health Department Hazardous Materials Unit approval of the RAP shall be obtained and the RAP shall be implemented with County Public Health Department Hazardous Materials Unit oversight, in accordance with all applicable regulatory guidelines (such as the Health and Safety Code) and action levels. **Plan Requirements and Timing.** Remediation at the proposed project site by ARCO/BP and the property owner shall be completed in accordance with an approved RAP. Site remediation shall occur prior to issuance of a Coastal Development Permit for project development. **Monitoring.** The County Public Health Department Hazardous Materials Unit shall review and approve the RAP and monitor and inspect remediation activities and documentation to ensure compliance with approved plans and applicable guidelines.

50. MM HAZ-3. In the event that visual contamination or chemical odors are detected while implementing the approved work on the project site, all work shall cease immediately. The property owner or appointed agent shall contact the County Fire Department's Hazardous Materials Unit (HMU); the resumption of work requires the approval of the HMU. **Plan Requirements and Timing.** This requirement shall be noted on all grading and building plans. **Monitoring.** Permit Compliance personnel shall perform periodic inspections.

51. MM PF-1. The proposed project shall include the following measures to reduce water consumption:

- Efficient irrigation systems which minimize runoff and evaporation, avoid unnecessary watering, and maximize water reaching the plant roots shall be installed. Landscape plans shall emphasize low water consumption grasses and plants wherever possible.
- Water in fountains, ponds, and other landscape features shall use recirculating water systems to prevent waste.
- Water saving techniques, including water-conserving plumbing, low flow toilets, showers, and faucets shall be incorporated.
- Recycled water shall be used instead of potable water for landscaping within the development envelopes.

Plan Requirements and Timing. The final landscape plan shall precisely define high- and lower-demand species areas to allow for expedient review and approval by the P&D and the Board of Architectural Review prior to issuance of a Coastal Development Hearing (CDH). The conditions, covenants, and restrictions shall incorporate language and illustrations such as those found in GWD and Santa Barbara Botanical Garden publications advocating low water use plantings. Landscape plan components and conditions, covenants, and restrictions shall be reviewed prior to issuance of a CDH. Final project plans shall include the necessary water-conserving fixtures and plumbing systems. The plans shall be reviewed and approved by P&D prior to issuance of a CDH. **Monitoring.** Permit Compliance staff shall verify the installation of the required landscaping, fixtures, and plumbing in the field.

52. MM PF-2. The waste disposal system shall be located within the development envelope of the affected parcel and shall be designed to include at least two drywells on each lot, within the vicinity and of a similar diameter and depth as the ones constructed and tested. **Plan Requirements and Timing.** All layouts, tests, and recommendations for the proposed waste disposal system shall be prepared and/or certified by a registered civil or geotechnical engineer or a certified engineering geologist. According to Section

35-147.2.g of the Coastal Zoning Ordinance, the applicant shall also submit an application for a Minor Conditional Use Permit (MCUP) for any proposed experimental waste disposal system. The MCUP shall be reviewed and approved concurrently with the Coastal Development Permit with Hearing (CDH) for the affected parcel. EHS shall determine that the proposed waste disposal system has adequate capacity for the project prior to approval of any zoning permits, including any Minor Conditional Use Permit (MCUP), or Coastal Development Permits (CDH). **Monitoring.** P&D shall ensure that all necessary reviews and approvals have occurred prior to approval of any zoning permits, including any MCUP or CDH.

53. MM TR-1. Traffic Control Plan. The owner/applicant shall submit to P&D and Caltrans the expected project construction schedule. The County shall allow concurrent construction of the project improvements. The plan shall specify that northbound construction vehicles shall be prohibited from accessing the site via the at grade crossing but rather shall use CalTrans offramps and overcrossings to access the site from the southbound Hwy 101 lane. **Plan Requirements:** The owner/applicant shall submit the traffic control plan. **Timing:** The traffic control plan shall be submitted to P&D for review and approval prior to Coastal Development Permit issuance. **Monitoring:** The owner/applicant shall provide P&D compliance monitoring staff with proof that all traffic control plan requirements have been met.

54. MM WAT-1. Prior to issuance of any construction/grading permit and/or the commencement of any clearing, grading, or excavation, a Notice of Intent (NOI) shall be submitted to the California State Water Resources Control Board Storm Water Permit Unit. Compliance with the General Permit includes the preparation of a Storm Water Pollution Prevention Plan (SWPPP), which shall identify potential pollutant sources that may affect the quality of discharges to stormwater, and shall include the design and placement of Best Management Practices (BMPs) to effectively prohibit the entry of pollutants from the project site into area water bodies during construction. The Storm Water Pollution Prevention Plan must contain some or all of the following specific mitigation measures designed to reduce or eliminate construction site runoff pollution, which can be grouped into four classes of BMPs:

Construction site planning BMPs including but not limited to:

- Development planning shall fit the topography, soils, drainage patterns, and natural vegetation of the site.
- Only the minimum amount of vegetation necessary for construction shall be removed.
- The clearing limits, setbacks, protected habitat areas, trees, drainage courses, and buffer zones shall be delineated on plans and in the field to prevent excessive or unnecessary soil disturbance and exposure.
- The amount of cuts and fills shall be minimized.
- Temporary and permanent roads and driveways shall be aligned along slope contours.
- Grading operations shall be phased to reduce the extent of disturbed areas and length of exposure.
- Excavation and grading shall be avoided during the rainy season.
- Impervious surface areas shall be minimized and permeable paving materials shall be used whenever possible.

BMPs to minimize soil movement on all slopes greater than or equal to 5:1 and including but not limited to:

- Disturbed soil areas shall be covered with geotextile fabric, jute netting, erosion control blankets, silt fence, or other erosion control materials.
- Soil stockpiles shall be covered.
- Soil stabilizers shall be employed, as appropriate.
- Disturbed soils shall be restored and revegetated as soon as practicable.
- Stabilized access roads and entrances shall be constructed in the initial phase of construction.
- Tire wash stations, gravel beds, and/or rumble plates will be installed at site entrance and exit points to prevent sediment from being tracked onto adjacent roadways.
- Sediments and construction materials shall be dry-swept from finished streets the same day they are deposited.
- Site runoff control structures, such as earth berms, drainage swales, and ditches that convey surface runoff during construction into temporary or permanent sediment detention basins shall be installed and made operational in the initial phase of construction as necessary.

BMPs to capture sediment on all slopes greater than or equal to 5:1, including but not limited to:

- Perimeter sediment controls (silt fence, fiber rolls, etc.) shall be installed, as necessary, prior to land-disturbing activities, and additional runoff control measures shall be installed during construction as necessary.
- Storm drain inlets shall be protected from sediment-laden runoff with inlet protection devices such as gravel bag barriers, filter fabric fences, block and gravel filters, excavated inlet sediment traps, sand bag barriers, and/or other devices.
- Sediment shall be removed from dewatering discharge with portable settling and filtration methods, such as Baker tanks or other devices.
- Graded areas shall be revegetated within a time frame to be determined by County P&D.

Good housekeeping BMPs, including but not limited to:

- All storm drains, drainage patterns, and creeks located near the construction site prior to construction shall be identified to ensure that all subcontractors know their location to prevent pollutants from entering them.
- Washing of concrete trucks, paint, equipment, or similar activities shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands. Areas designated for washing functions shall be at least 100 feet from any storm drain, water body or sensitive biological resources; the location(s) of the wash-out area(s) shall be clearly noted at the construction site with signs; the applicant shall designate a washout area, acceptable to Building and Safety and P&D staff; the wash-out areas shall be shown on the construction and/or grading and building plans and shall be in place and maintained throughout construction.

- All leaks, spills, and drips shall be immediately cleaned up and disposed of properly.
- Vehicles and heavy equipment that are leaking fuel, oil, hydraulic fluid, or other pollutants shall be immediately contained and either repaired immediately or removed from the site.
- One or more emergency spill containment kits shall be placed on site in easily visible locations and personnel will be trained in proper use and disposal methods.
- Vehicles and heavy equipment shall be refueled and serviced in one designated site located at least 500 feet from creeks and drainage swales.
- Temporary storage of construction equipment shall be limited to a 50 x 50-foot area preferably located along an existing dirt access road, and shall be located at least 100 feet from any water bodies.
- Dry clean-up methods shall be used whenever possible.
- Clean site runoff shall not be contaminated with polluted water through the use of berms or ditches to divert surface runoff around the construction site.

Plan Requirements and Timing. Prior to issuance of a Coastal Development Permit (CDP), the applicant shall submit a copy of the RWQCB's NOI acceptance letter to the County. The applicant shall provide a copy of the required SWPPP to the County for review and approval (the SWPPP may be submitted in lieu of an Erosion and Sediment Control Plan per Chapter 14-29). The plan shall be designed to protect water quality during all phases of construction activity. BMPs described in the SWPPP shall be shown on the plans prior to issuance of CDP. The SWPPP shall be kept on site during construction activities and be available to operating personnel, as well as to any regulatory agency staff with authority over the project development. The applicant shall amend the SWPPP whenever there is a change in construction that may affect the discharge of significant quantities of sediment or other pollutants to surface waters, ground waters, or a municipal storm drain system. Such changes shall be approved by County staff and recorded on the construction plans. The applicant shall notify the County prior to commencement of grading. Erosion and sediment control measures shall be maintained for the duration of the grading period and development of the project until graded areas have been permanently stabilized by structures, long-term erosion control measures or landscaping. The County or its consultant shall conduct periodic "tailgate" meetings about site maintenance and water quality issues during construction.

Monitoring. The County and other agencies, as appropriate, shall inspect the site during construction for compliance with the SWPPP. During the rainy season (between November 1 and April 15), a minimum of two County inspections per month shall be conducted. County staff shall inspect the site for all requirements prior to final inspection. The County shall photodocument revegetation to ensure compliance with plans. Grading inspectors shall monitor technical aspects of the grading activities, and ensure enforcement of County requirements consistent with the Grading Ordinance. Upon strict adherence to requirements set forth in the RWQCB-approved SWPPP, including site-monitoring routines, additional downstream water quality sampling and testing would not be necessary.

55. MM WAT-2. To reduce increases in runoff to site drainages and watersheds due to the increase in impervious surfaces, most notably the paved driveway, the applicant shall:

- Use bioswales and storm drains to channel water from the development envelope away from erodible coastal ravines; and,

- Minimize creation of impervious surfaces through the use of pervious concrete, pavers, or a similar product. Where impervious surfaces are present, drainage will be controlled in such a way as to minimize the chance of channelization and erosion.

Plan Requirements and Timing. Locations and design specifications of storm water structures and devices shall be depicted on grading and drainage plans. The plans shall be reviewed and approved by County Flood Control Project Clean Water and P&D prior to CDH issuance. If these structures and devices shall also function to reduce water-borne pollutants in post-construction surface runoff, then they shall also be reviewed and approved by the County Water Resources Division for compliance with County Public Works Department Standard Conditions for Project Approval – Water Quality BMPs. **Monitoring.** P&D staff shall site inspect implementation pursuant to approved plans prior to final inspection

56. MM WAT-3. While encountering groundwater is not expected based upon testing conducted on the project site, to reduce impacts to groundwater resources associated with excavation of basements, the proposed project shall incorporate standard engineering designs, as recommended by Earth Systems Pacific in the site-specific Soils Engineering Reports (2007) and found in **Appendix 3.8** of this EIR, which will be submitted to the County as part of the building permit application process. Such measures to mitigate potential impacts resulting from water during basement construction shall include:

- The basement areas shall include drainage systems to intercept water from around the retaining walls and below the slabs to transmit water into the sites' drainage systems. If it is not possible to outlet water into the sites' storm drain systems by gravity flow, sump pumps will be necessary. Specific design of the drainage systems shall follow those recommended in the soils engineering reports.

Plan Requirements and Timing. Site-specific soils engineering reports shall be submitted to the County as part of the building permit application process. Recommended locations and design specifications of drainage systems shall be depicted on grading and drainage plans. The plans shall be reviewed and approved by the County Building and Safety Division for conformance with this condition prior to Building Permit issuance. **Monitoring.** Building and Safety staff shall conduct a site inspection.

Standard Conditions Applicable to all Permits

57. Aest-09 Construction Clean-up. The developer shall clear the project site of all excess construction debris. **PLAN REQUIREMENT:** This requirement shall be noted on final building plans. **TIMING:** Debris clearance shall occur prior to Final Building Inspection Clearance. **MONITORING:** P&D compliance monitoring staff shall site inspect prior to Final Building Inspection Clearance.

58. Air-01 Dust Control. The Owner/Applicant shall comply with the following dust control components at all times including weekends and holidays:

- a. Dust generated by the development activities shall be kept to a minimum with a goal of retaining dust on the site.
- b. During clearing, grading, earth moving, excavation, or transportation of cut or fill materials, use water trucks or sprinkler systems to prevent dust from leaving the site and to create a crust after each day's activities cease.

- c. During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site.
- d. Wet down the construction area after work is completed for the day and whenever wind exceeds 15 mph.
- e. When wind exceeds 15 mph, have site watered at least once each day including weekends and/or holidays.
- f. Order increased watering as necessary to prevent transport of dust off-site.
- g. Cover soil stockpiled for more than two days or treat with soil binders to prevent dust generation. Reapply as needed.
- h. If the site is graded and left undeveloped for over four weeks, the Owner/Applicant shall immediately:
 - i. Seed and water to re-vegetate graded areas; and/or
 - ii. Spread soil binders; and/or
 - iii. Employ any other method(s) deemed appropriate by P&D or APCD.

PLAN REQUIREMENTS: These dust control requirements shall be noted on all grading and building plans. **PRE-CONSTRUCTION REQUIREMENTS:** The contractor or builder shall provide P&D monitoring staff and APCD with the name and contact information for an assigned onsite dust control monitor(s) who has the responsibility to: a. Assure all dust control requirements are complied with including those covering weekends and holidays. b. Order increased watering as necessary to prevent transport of dust offsite. c. Attend the pre-construction meeting. **TIMING:** The dust monitor shall be designated prior to CDH issuance. The dust control components apply from the beginning of any grading or construction throughout all development activities until Final Building Inspection Clearance is issued and landscaping is installed. **MONITORING:** P&D processing planner shall ensure measures are on plans. P&D grading and building inspectors shall spot check; Grading and Building shall ensure compliance onsite. APCD inspectors shall respond to nuisance complaints.

59. Bio-01a Tree Protection Plan-Site Plan Component. The Owner/Applicant shall submit a Tree Protection Plan (TPP) prepared by a P&D-approved arborist and/or biologist and designed to protect on-site native and habitat trees. The plan shall include the following site plan components:

1. The Owner/Applicant shall comply with and depict the following on the TPP exhibit and Grading and Building Plans:
 - a. With the exception of the three non-native trees adjacent to the Coastal Estate that would be removed and mitigated for pursuant to MM-BIO-14 all trees shall be preserved. No grading for buildings, accessways, easements, subsurface grading sewage disposal and well placement shall take place within the area within six feet of the dripline of any of these trees.
 - b. Depict approved development envelopes. Include utility corridors, irrigation lines, roadways, driveways.
 - c. Depict equipment storage (including construction materials, equipment, fill soil or rocks) and construction staging and parking areas outside of the protection area.
 - d. Depict the type & location of protective fencing (see below) or other barriers to be in place to protect trees in protection areas during construction.
 - e. Depict the location of all tree wells or retaining walls. These shall be located outside the area within six feet of the dripline of all protected trees unless authorized by P&D.

- f. Depict the location of all paths within 25 feet of dripline areas. Only pervious paving materials (gravel, brick without mortar, turf block) are permitted within 6 feet of dripline areas.

PLAN REQUIREMENTS: The Owner/Applicant shall: (1) Submit the TPP; (2) Include all applicable components in Tree Replacement Plan and/or Landscape and Irrigation Plans if these are required; (3) include as notes or depictions all plan components listed above, graphically depicting all those related to earth movement, construction, and temporarily and/or permanently installed protection measures. **TIMING:** The Owner/Applicant shall comply with this measure prior to CDH issuance. Plan components shall be included on all plans prior to the issuance of the CDH. The Owner/Applicant shall install tree protection measures onsite prior to issuance of grading permits and pre-construction meeting. **MONITORING:** The Owner/Applicant shall demonstrate to P&D compliance monitoring staff that trees identified for protection were not damaged or removed or if damage, or removal occurred, that correction is completed as required by the TPP prior to Final Building Inspection Clearance.

60. Bio-01b Tree Protection Plan – Construction Component. The Owner / Applicant shall submit a Tree Protection Plan (TPP) prepared by a P&D-approved arborist and/or biologist and designed to protect on-site native and habitat trees. The Owner Applicant shall comply with and specify the following as notes on the TPP and Grading and Building Plans:

1. Fencing of all trees to be protected at least six feet outside the dripline with chain-link (or other material satisfactory to P&D) fencing at least 3 ft high, staked to prevent any collapse, and with signs identifying the protection area placed in 15-ft intervals on the fencing.
2. Fencing/staking/signage shall be maintained throughout all grading and construction activities.
3. All trees located within 25 ft of buildings shall be protected from stucco and/or paint during construction.
4. No irrigation is permitted within 6 ft of the dripline of any protected tree unless specifically authorized.
5. The following shall be completed only by hand and under the direction of a P&D approved arborist/biologist: a. Any trenching required within the dripline or sensitive root zone of any specimen. b. Cleanly cutting any roots of one inch in diameter or greater, encountered during grading or construction. c. Tree removal and trimming.
6. Special equipment: If the use of hand tools is deemed infeasible by P&D, P&D may authorize work with rubber-tired construction equipment weighing five tons or less. If significant large rocks are present, or if spoil placement will impact surrounding trees, then a small tracked excavator (i.e., 215 or smaller track hoe) may be used as determined by P&D staff and under the direction of a P&D approved biologist.
7. The following are not permitted: a. Any trenching within the dripline or sensitive root zone of any specimen. b. Cutting any roots of one inch in diameter or greater. c. Tree removal and trimming.
8. Grading shall be designed to avoid ponding and ensure proper drainage within driplines of oak trees.

PLAN REQUIREMENTS: The Owner/Applicant shall: (1) submit the TPP; (2) Include all applicable components in Tree Replacement Plan and/or Landscape and Irrigation Plans if these are required; (3) include as notes or depictions all plan components listed

above, graphically depicting all those related to earth movement, construction, and temporarily and/or permanently installed protection measures. **TIMING:** The Owner/Applicant shall comply with this measure prior to CDH issuance. Plan components shall be included on all plans prior to CDH issuance. The Owner/Applicant shall install tree protection measures onsite prior to issuance of grading/building permits and pre-construction meeting. **MONITORING:** The Owner/Applicant shall demonstrate to P&D compliance monitoring staff that trees identified for protection were not damaged or removed or, if damage or removal occurred, that correction is completed as required by the TPP prior to Final Building Inspection Clearance.

- 61. Bio-08 Fish and Game.** No alteration to stream channels or banks shall be permitted (no CDH shall be issued) until the Owner/Applicant demonstrates receipt of all authorizations from the California Department of Fish and Game and/or federal agencies for any planned alteration to stream channels or banks associated with the utilities, road and driveway construction, and bridge installation.
- 62. Bio-09 Fish and Wildlife Jurisdiction Advisory.** The project site is within the range of CA Red-legged frog, tidewater goby and southwestern pond turtle, species listed as Endangered by the U.S. Fish and Wildlife Service. Based upon the EIR for the proposed project (09EIR-00000-00003, revised February 2013) it has been determined that the probability for CA Red-legged frog, tidewater goby and southwestern pond turtle, occurrence on the site is likely. The issuance of this permit does not relieve the permit-holder of any duties, obligations, or responsibilities under the Endangered Species Act or any other law. The permit-holder shall contact the Ventura office of the U.S. Fish and Wildlife Service at (805)644-1766 to ascertain his or her level of risk under the Endangered Species Act in implementing the project herein permitted.
- 63. Bio-13 Habitat Protection.** Excavation work within or adjacent to sensitive habitats including native trees shall be avoided to the maximum extent feasible. Where excavation must be performed within sensitive areas (as determined by P&D), it shall be performed with hand tools only. If the use of hand tools is deemed infeasible by P&D, excavation work may be authorized by P&D to be completed with rubber-tired construction equipment weighing five tons or less. If significant large rocks are present, or if spoil placement will impact surrounding trees, then a small tracked excavator (i.e., 215 or smaller track hoe) may be used as determined by P&D staff. **PLAN REQUIREMENTS:** The above measure shall be noted on all grading and construction plans. **MONITORING:** P&D compliance monitoring staff shall ensure compliance on site during construction.
- 64. Bio-20 Equipment Storage-Construction.** The Owner/Applicant shall designate one or more construction equipment filling and storage areas within the designated development envelopes to contain spills, facilitate cleanUp and proper disposal and prevent contamination from discharging to the storm drains, street, drainage ditches, creeks, or wetlands. The areas shall be no larger than 50 x 50 foot unless otherwise approved by P&D and shall be located at least 100 feet from any storm drain, waterbody or sensitive biological resources. **PLAN REQUIREMENTS:** The Owner/Applicant shall designate the P&D approved location on all CDH, grading and building plans. **TIMING:** The Owner/Applicant shall install the area prior to commencement of construction. **MONITORING:** P&D compliance monitoring staff shall ensure compliance prior to and throughout construction.

- 65. Bio-22 Fish and Game Fees.** The Owner/Applicant shall provide Planning and Development with a check payable to the “County of Santa Barbara” within 10 days of project approval as required by California Fish and Game Code Section 711.4 for that Department’s review of the EIR associated with the project.
- 66. DevEnv-01a Development Envelope.** All structural development shall be limited to the development envelope(s) designated on plans dated March 20, 2013. All site preparation, ground disturbances and construction activities including those for structures, access, easements, subsurface grading, sewage disposal, drainage components and well placement shall occur within the designated development envelope(s). No field alteration to plans shall allow construction, storage or staging outside of these development envelopes. **PLAN REQUIREMENTS:** The development envelope(s) shall be depicted on all plans submitted for CDH approval, grading and building permits. **TIMING:** The development envelope(s) shall be staked in the field prior to CDH approval. **MONITORING:** During plan check, the P&D permit processing planner shall confirm that all structural development is confined to the approved development envelope. Staking shall be verified by compliance monitoring staff at the preconstruction meeting or prior to building permit approval. P&D building inspectors and compliance monitoring staff shall ensure that structural development is confined to the development envelopes and that staking remains in place during construction.
- 67. Noise-02 Construction Hours.** The Owner /Applicant, including all contractors and subcontractors shall limit construction activity, including equipment maintenance and site preparation, to the hours between 7:00 a.m. and 4:00 p.m. Monday through Friday. No construction shall occur on weekends or State holidays. Non-noise generating construction activities such as interior plumbing, electrical, drywall and painting (depending on compressor noise levels) are not subject to these restrictions. Any subsequent amendment to the Comprehensive General Plan, applicable Community or Specific Plan, or Zoning Code noise standard upon which these construction hours are based shall supersede the hours stated herein. **PLAN REQUIREMENTS:** The Owner/Applicant shall provide and post 3 signs stating these restrictions at construction site entries. **TIMING:** Signs shall be posted prior to commencement of construction and maintained throughout construction. **MONITORING:** The Owner/Applicant shall demonstrate that required signs are posted prior to grading/building permit issuance and pre-construction meeting. Building inspectors and permit compliance staff shall spot check and respond to complaints.
- 68. Noise-04 Equipment Shielding-Construction.** Stationary construction equipment that generates noise which exceeds 65 dBA at the project boundaries shall be shielded with appropriate acoustic shielding to P&D's satisfaction. **PLAN REQUIREMENTS:** The Owner/Applicant shall designate the equipment area with appropriate acoustic shielding on building and grading plans. **TIMING:** Equipment and shielding shall be installed prior to construction and remain in the designated location throughout construction activities. **MONITORING:** The Owner/Applicant shall demonstrate that the acoustic shielding is in place prior to commencement of construction activities. P&D compliance staff shall perform site inspections throughout construction to ensure compliance.
- 69. Parking-02 Onsite Construction Parking.** All construction-related vehicles, equipment staging and storage areas shall be located onsite and outside of the road and highway right of way, sensitive biological resources and cultural sites. The Owner/Applicant shall provide all construction personnel with a written notice of this requirement and a

description of approved parking, staging and storage areas. The notice shall also include the name and phone number of the Owner/Applicant's designee responsible for enforcement of this restriction. **PLAN REQUIREMENTS:** Designated construction personnel parking, equipment staging and storage areas shall be depicted on project plans submitted for CDH issuance. **TIMING:** A copy of the written notice shall be submitted to P&D permit processing staff prior to CDH issuance. This restriction shall be maintained throughout construction. **MONITORING:** P&D permit compliance and Building and Safety shall confirm the availability of designated onsite areas during construction, and as required, shall require re-distribution of updated notices and/or refer complaints regarding offsite parking to appropriate agencies.

70. SolidW-03 Solid Waste-Construction Site. The Owner/Applicant shall provide an adequate number of covered receptacles for construction and employee trash to prevent trash & debris from blowing offsite, shall ensure waste is picked up weekly or more frequently as needed, and shall ensure site is free of trash and debris when construction is complete. **PLAN REQUIREMENTS:** All plans shall contain notes that the site is to remain trash-free throughout construction. **TIMING:** Prior to building permit issuance, the Owner/Applicant shall designate and provide P&D with the name and phone number of a contact person(s) responsible for trash prevention and site clean-up. Additional covered receptacles shall be provided as determined necessary by P&D. **MONITORING:** Permit compliance monitoring staff shall inspect periodically throughout grading and construction activities and prior to Final Building Inspection Clearance to ensure the construction site is free of all trash and debris.

71. NPDES-16 Storm Water Retention-Roof Runoff Collection. To reduce storm water runoff, allow for infiltration, reduce pollutants and minimize degradation of storm water quality from development, parking lots and other paved surfaces the Owner/Applicant shall install a roof runoff collection and disposal system to infiltrate storm water runoff. Runoff shall be directed to either a subsurface infiltration trench, french drains, planter boxes, landscaped areas or connected to the site's irrigation system. An overflow or high flow bypass system will be provided. **PLAN REQUIREMENTS:** The Owner/Applicant shall include the roof runoff collection and disposal system design, including any plant palettes and the sources of plant material, on the grading and drainage and landscape plans, and any special roof design elements on building and roofing detail plans, depicted graphically. **MONITORING:** P&D compliance monitoring staff shall site inspect for installation prior to Final Building Inspection Clearance.

Coastal Development Permit Specific Conditions (06CDH-00000-00038, 06CDH-00000-00039, 09CDP-00000-00045, 10CDP-00000-00094)

72. DIMF-24d DIMF Fees-Fire. In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees for both the Ocean and Inland Estates to finance the development of facilities for the Fire Department. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law in effect when paid. The total Fire DIMF amount is currently estimated to be \$.10 per square foot (sprinklered). This is based on a project type of a single-family dwelling. **TIMING:** Fire DIMFs shall be paid to the County Fire Department prior to Final Building Inspection and shall be based on the fee schedules in effect when paid.

- 73. DIMF-24e DIMF Fees-Parks.** In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees both the Ocean and Inland Estates to finance the development of facilities for the Parks Department. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law in effect when paid. The Parks DIMF amount is currently estimated to be \$1,195 per residence. This is based on a project type of a single-family dwelling. TIMING: Parks DIMFs shall be paid to the County Parks Department prior to the date of final inspection or the date the certificate of occupancy is issued, whichever comes first.
- 74. DIMF-24g DIMF Fees-Transportation.** In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees both the Ocean and Inland Estates to finance the development of facilities for transportation. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law in effect when paid. The total DIMF amount for Transportation is currently estimated to be \$2,047 per residence. This is based on a project type of a single-family dwelling. TIMING: Transportation DIMFs shall be paid to the County Public Works Department-Transportation Division prior to the date of final inspection or the date the certificate of occupancy is issued, whichever comes first.
- 75. Rules-10 CDP Expiration-No CUP or DVP. (06CDH-00000-00038 and 06CDH-00000-00039)** The approval or conditional approval of a Coastal Development Permit shall be valid for one year from the date of action by the Planning Commission. Prior to the expiration of the approval, the review authority who approved the Coastal Development Permit may extend the approval one time for one year if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 can still be made. A Coastal Development Permit shall expire two years from the date of issuance if the use, building or structure for which the permit was issued has not been established or commenced in conformance with the effective permit. Prior to the expiration of such two year period the Director may extend such period one time for one year for good cause shown, provided that the findings for approval required in compliance with Section 35-169.5, as applicable, can still be made.
- 76. Rules-11 CDP Expiration-With CUP or DVP. (09CDP-00000-00045 and 10CDP-00000-00094)** The approval or conditional approval of a Coastal Development Permit shall be valid for one year from the date of decision-maker action. Prior to the expiration of the approval, the review authority who approved the Coastal Development Permit may extend the approval for one year if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 can still be made. Prior to the expiration of a time extension approved in compliance with Subsection a. above, the review authority who approved the time extension may approve two additional time extensions for two years each if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 can still be made. A Coastal Development Permit shall expire two years from the date of issuance if the use or structure for which the permit was issued has not been established or commenced in conformance with the effective permit. A Coastal Development Permit whose expiration date has been extended in compliance with the above will nevertheless expire at the earlier of: (1) the expiration of the most recent time extension or (2) the expiration of the associated Conditional Use Permit or Development Plan (as modified by any extension thereto).

- 77. Rules-28 NTPO Condition.** A recorded Notice to Property Owner document is necessary to ensure that the proposed guesthouses on the ocean and inland lots shall be used only for its permitted uses. The property owner shall sign and record the document prior to CDH issuance.
- 78. Utilities and Access.** The applicant shall enter into and record an agreement in a form acceptable to and approved by the Planning and Development to reserve an access and utilities easement over the Inland Estate (APN: 079-200-008) in favor of the Ocean Estate (APN: 079-200-004) at the time of conveyance of either parcel. This agreement is to be recorded with the appropriate instruments as determined by the County Surveyor.
- 79. Maintenance Agreement for Utilities and Access.** Prior to issuance of the first Coastal Development Permit for the proposed project, the applicant shall record a maintenance agreement for the maintenance of the proposed utilities, bridge, access road and driveways. The agreement shall specify the responsibilities of the Inland Estate (APN: 079-200-008) and Ocean Estate (APN: 079-200-004) property owners for long-term maintenance of the bridge, access road and driveways serving the two estates. This agreement is to be recorded with the appropriate instruments as determined by the County Surveyor.
- 80. Utilities Easement.** Prior to issuance of the first Coastal Development Permit for the proposed project, the applicant/property owner shall submit revised plans that demonstrate that the utility line is located entirely within the 20 foot recorded easement on the adjacent property the east (APN: 079-200-005) or shall demonstrate that additional easement rights have been obtained.
- 81. Coastal Sage Scrub.** In order to protect coastal sage scrub vegetation on the ocean lot, the ocean estate shall be redesigned, or fuel clearance plan re-designed (with fire Department approval) to avoid fuel clearance within coastal sage scrub habitat. **Requirements and Timing:** Redesign shall occur prior to issuance of the first Coastal Development Permit for the project. Plans shall be reviewed by P&D staff and the Fire Department.

Conditional Use Permit Specific Conditions (07CUP-00000-00065, 10CUP-00000-00039)

- 82. Rules-12 CUP Expiration.** The Owner/Applicant shall obtain the required CDP within the 18 months following the effective date of this Conditional Use Permit. If the required CDP is not issued within the 18 months following the effective date of this Conditional Use Permit, or within such extended period of time as may be authorized in compliance with Section Article II and an application for an extension has not been submitted to the Planning and Development Department, then Conditional Use Permit shall be considered void and of no further effect.
- 83. Rules-17 CUP-Void.** Conditional Use Permits shall become void and be automatically revoked if the development and/or authorized use allowed by the Conditional Use Permits is discontinued for a period of more than 12 months, or within such extended period of time as may be authorized in compliance with Article II. Any use authorized by this Conditional Use Permit shall immediately cease upon expiration or revocation of this Conditional Use Permit. Any CDP approved or issued pursuant to this Conditional Use Permit shall expire upon expiration or revocation of the Conditional Use Permit.

Conditional Use Permit renewals must be applied for prior to expiration of the Conditional Use Permit (ARTICLE II §35-172.9).

- 84. Rules-18 CUP and DVP Revisions.** The approval by the Planning Commission of a revised CUP shall automatically supersede any previously approved CUP upon the effective date of the revised permit.

County Rules and Regulations (All Permits)

- 85. Rules-02 Effective Date-Appealable to CCC.** The proposed Coastal Development Permits and Conditional Use Permits shall become effective upon the expiration of the applicable appeal period provided an appeal has not been filed. If an appeal has been filed, the planning permit shall not be deemed effective until final action by the review authority on the appeal, including action by the California Coastal Commission if the planning permit is appealed to the Coastal Commission. [ARTICLE II § 35-169].

- 86. Rules-05 Acceptance of Conditions.** The Owner/Applicant's acceptance of this permit and/or commencement of use, construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the Owner/Applicant.

- 87. Rules-23 Processing Fees Required.** Prior CDH issuance the Owner/Applicant shall pay all applicable P&D permit processing fees in full as required by County ordinances and resolutions.

- 88. Rules-29 Other Dept Conditions.** Compliance with Departmental/Division letters required as follows:

1. Air Pollution Control District dated February 1, 2013
2. Goleta Water District dated September 15, 2004 and December 3, 1998
3. Flood Control dated August 16, 2006
4. Environmental Health Services Division dated February 23, 2012
5. Fire Department dated February 14, 2013 and December 2, 2010
6. Public Works Transportation dated February 22, 2013
7. Santa Barbara County Parks dated March 19, 2013

- 89. Rules-31 Mitigation Monitoring Required.** The Owner/Applicant shall ensure that the project complies with all approved plans and all project conditions including those which must be monitored after the project is built and occupied. To accomplish this, the Owner/Applicant shall:

1. Contact P&D compliance staff as soon as possible after project approval to provide the name and phone number of the future contact person for the project and give estimated dates for future project activities;
2. Pay fees prior to CDH issuance as authorized by ordinance and fee schedules to cover full costs of monitoring as described above, including costs for P&D to hire and manage outside consultants when deemed necessary by P&D staff (e.g. non-compliance situations, special monitoring needed for sensitive areas including but not limited to biologists, archaeologists) to assess damage and/or ensure compliance. In such cases, the Owner/Applicant shall comply with P&D recommendations to bring

the project into compliance. The decision of the Director of P&D shall be final in the event of a dispute;

3. Note the following on each page of grading and building plans “This project is subject to mitigation Compliance Monitoring and Reporting. All aspects of project construction shall adhere to the approved plans, notes, and conditions of approval, and mitigation measures from Revised Final EIR 09EIR-00000-00003.
4. Contact P&D compliance staff at least two weeks prior to commencement of construction activities to schedule an on-site pre-construction meeting to be led by P&D Compliance Monitoring staff and attended by all parties deemed necessary by P&D, including the permit issuing planner, grading and/or building inspectors, other agency staff, and key construction personnel: contractors, sub-contractors and contracted monitors among others.
5. The applicant shall provide a specific notification to construction personnel advising them that they must remain within the construction area of the development envelope during construction activities and during breaks in order to prevent disturbance of seals. A copy of this notice shall be provided to P&D Permit Compliance staff prior to the start of construction. Permit compliance staff shall specifically discuss this limitation during the pre-construction meeting and monitor throughout construction. Signs informing users of access restrictions and relevant requirements of the Marine Mammal Protection Act shall be posted on fencing at the boundaries of the development envelopes/construction areas.
6. If construction occurs during the harbor seal pupping/breeding season (e.g., February 1 to May 31), a County qualified biologist shall be hired by the applicant to provide construction personnel with specific training regarding avoidance of disturbance to harbor seals and to monitor construction activities at least twice weekly during the harbor seal pupping/breeding season. Monthly reports regarding compliance with protective measures shall be provided to P&D permit Compliance staff by the County qualified biologist.

90. Rules-32 Contractor and Subcontractor Notification. The Owner/Applicant shall ensure that potential contractors are aware of County requirements. Owner / Applicant shall notify all contractors and subcontractors in writing of the site rules, restrictions, and Conditions of Approval and submit a copy of the notice to P&D compliance monitoring staff.

91. Rules-33 Indemnity and Separation. The Owner/Applicant shall defend, indemnify and hold harmless the County or its agents or officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of this project. In the event that the County fails promptly to notify the Owner / Applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.

92. Lighting. In order to minimize lighting of the night sky, the project shall be subject to the following lighting requirements:

1. All exterior lighting be limited to a height of 18” (less any building lighting needed per building code).
2. Lighting of swimming pools shall be turned off by 10pm. All lighting shall be dimmed after 10:00 PM.
3. The applicant shall prepare photo-simulations of night-time lighting from the house and exterior lighting for Central Board of Architectural Review (CBAR) review prior to final approval by the CBAR.
4. There shall be no uplighting of landscape or structures

Plan requirements and Timing: Lighting plans shall be submitted for review and approval by County Planning and Development and the Board of Architectural Review (BAR) prior to Coastal Development Permit issuance and prior to final BAR approval.

Monitoring: Building and Safety and Permit Compliance staff shall ensure that lighting is installed in accordance with approved lighting plans.

93. Ocean Lot Open Space or Conservation Easement. Subsequent to recordation of the Offer to Dedicate and prior to issuance of the first Coastal Development Permit for the ocean lot, the permit holder shall grant a 60.3 acre Open Space or Conservation Easement (hereafter referred to as “The Easement”) in perpetuity, as shown on Attachment C to the Memorandum to the Planning Commission, dated November 12, 2013 and offered as part of the Project Description, to the County or a qualified nonprofit organization as defined by California Civil Code Section 815.3(a) or California Government Code Section 51075(f), which shall accept and record the The Easement. The Easement shall be recorded free of prior liens and encumbrances (other than existing and approved easements for roads, trails, and utilities) which the County determines may affect the interest being conveyed, and shall run with the land in favor of the County or conservation organization, binding all successors and assigns. The recorded grant of easement shall include a formal legal description of the entire property and a metes and bounds legal description and graphic description, prepared by a licensed surveyor, of The Easement. The easement language shall indicate that no development shall occur within the Ocean Lot Open Space or Conservation Easement except the following activities as approved for the Project, or pursuant to a future permit:

1. Habitat restoration, enhancement and maintenance, including associated grading and drainage improvements for such purposes;
2. Installation, repair or upgrading of approved roads, utilities, including storm drains, water lines, irrigation lines, and similar facilities;
3. Construction of water quality management structures, erosion control and flood control management activities;
4. Fuel modification required by the County of Santa Barbara Fire Department undertaken in accordance with the final fuel modification plan approved pursuant to this permit, or other fuel modification plans required and approved by the County;
5. Improvements for and maintenance of public access, recreation, and/or environmental education and research including, but not limited to, trails, fencing along designated pathways, and associated appurtenances and necessary signage;
6. Reconstruction of existing drains or maintenance and repair activities consistent with permit conditions;
7. Activities for the remediation of hazardous materials as approved by the County; and,
8. Minor earth disturbance for archaeological study.

Management: Management and maintenance of the Ocean Lot Easement, consistent with adopted mitigation measures, conditions for the proposed project, and the Open Space or Conservation Easement Stewardship Plan and the Upland and Riparian Mitigation and Monitoring Plan shall be the responsibility of the permit holder. However, nothing shall preclude the permit holder from entering into an agreement with the grantee of The Easement for management and maintenance of The Easement. **Plan Requirements and Timing:** Subsequent to recordation of the Offer to Dedicate and prior to issuance of the first Coastal Development Permit for the ocean lot the permit holder shall 1) submit the easement language to the County for review and approval by the Planning and Development Department and County Counsel and 2) grant the proposed 60.3 acre Ocean Lot Open Space or Conservation Easement in perpetuity to the County or a qualified nonprofit organization as defined by California Civil Code Section 815.3(a) or California Government Code Section 51075(f), which shall accept and record The Easement.

94. Inland Lot Open Space or Conservation Easement. Subsequent to recordation of the Offer to Dedicate and prior to issuance of the first Coastal Development Permit for the inland lot, the permit holder shall grant a 57.0 acre Inland Lot Open Space or Conservation Easement in perpetuity (hereafter referred to as “The Easement”), as shown on Attachment C to the Memorandum to the Planning Commission, dated November 12, 2013 and offered as part of the Project Description, to the County or a qualified nonprofit organization as defined by California Civil Code Section 815.3(a) or California Government Code Section 51075(f), which shall accept and record The Easement. The Easement shall be recorded free of prior liens and encumbrances (other than existing and approved easements for roads, trails, and utilities) which the County determines may affect the interest being conveyed, and shall run with the land in favor of the County or conservation organization, binding all successors and assigns. The recorded grant of easement shall include a formal legal description of the entire property and a metes and bounds legal description and graphic description, prepared by a licensed surveyor, of The Easement. The easement language shall indicate that no development shall occur within the Inland Lot Easement except the following activities as approved for the Project, or pursuant to a future permit:

1. Habitat restoration, enhancement and maintenance, including associated grading and drainage improvements for such purposes;
2. Installation, repair or upgrading of approved roads and utilities, including storm drains, water lines, irrigation lines, and similar facilities;
3. Construction of water quality management structures, erosion control and flood control management activities;
4. Fuel modification required by the County of Santa Barbara Fire Department undertaken in accordance with the final fuel modification plan approved pursuant to this permit, or other fuel modification plans required and approved by the County;
5. Improvements for and maintenance of public access, recreation, and/or environmental education and research including, but not limited to, trails, public parking facilities, fencing along designated pathways, and associated appurtenances and necessary signage;
6. Reconstruction of existing drains or maintenance and repair activities consistent with permit conditions;
7. Activities for the remediation of hazardous materials as approved by the County; and,

8. Minor earth disturbance for archaeological study.

Management: Management and maintenance of the Inland Lot Easement, consistent with adopted mitigation measures, conditions for the proposed project, the Open Space or Conservation Easement Stewardship Plan, and the Upland and Riparian Mitigation and Monitoring Plan shall be the responsibility of the permit holder. However, nothing shall preclude the permit holder from entering into an agreement with the grantee of The Easement for management and maintenance of The Easement. **Plan Requirements and Timing:** Prior to issuance of the first Coastal Development Permit for the inland lot the permit holder shall 1) submit the easement language to the County for review and approval by the Planning and Development Department and County Counsel and 2) grant the proposed 57.0 acre Inland Lot Open Space Easement or Conservation Easement in perpetuity to the County or a qualified nonprofit organization as defined by California Civil Code Section 815.3(a) or California Government Code Section 51075(f), which shall accept and record The Easement.

95. Upland and Riparian Mitigation and Monitoring Plan & Open Space or Conservation Easement Stewardship Plan

The proposed project includes a 60.3 acre Open Space or Conservation Easement on the Ocean lot and a 57 acre Open Space or Conservation Easement on the Inland lot, for a total open space area of 117.3 acres. Within the 117.3 acre Open Space or Conservation Easement, the applicant has proposed a 23.5-acre habitat restoration area. The 23.5 acres of restoration is described in the Conceptual Upland and Riparian Mitigation and Monitoring Plan prepared by the applicant.

Upland and Riparian Mitigation and Monitoring Plan

The Upland and Riparian Mitigation and Monitoring Plan is described in MM-BIO-10 and would be implemented as a part of the proposed project following issuance of the Coastal Development Permit. The permit holder for the inland lot shall be responsible for implementation and 5 years of maintenance of the 23.5-acre habitat restoration area consistent with the Upland and Riparian Mitigation and Monitoring Plan. However, nothing shall preclude the permit holder(s) from entering into an agreement with the grantee of the Open Space or Conservation Easement for maintenance of the habitat restoration area, consistent with the Upland and Riparian Mitigation and Monitoring Plan. Should no agreement occur, implementation of and maintenance consistent with the Upland and Riparian Mitigation and Monitoring Plan will remain with the permit holder(s) and their successors and assigns.

Open Space or Conservation Easement Stewardship Plan

The permit holder(s) shall be responsible for maintenance of the entire 117.3 acre perpetual Open Space or Conservation Easement consistent with the Open Space or Conservation Easement Stewardship Plan. However, nothing shall preclude the permit holder(s) from entering into an agreement with the grantee of the easement for maintenance of the Open Space or Conservation Easement, consistent with the Stewardship Plan. Should no agreement occur, implementation of and maintenance consistent with the Stewardship Plan will remain with the permit holder(s) and their successors and assigns. The Stewardship Plan shall consist of the following:

1. Narrative, statistics and related elements to fully describe the approved Project and all relevant adopted Mitigation Measures and Conditions of Approval bearing on biological resource protection and enhancement;
2. Identification of the County or the specific qualified nonprofit organization as defined by California Civil Code Section 815.3(a) or California Government Code Section 51075(f), to whom the Open Space or Conservation Easement (“OSCE”) is to be conveyed and identification of the permit holder(s) as the responsible party until the Open Space or Conservation Easement is granted, accepted, and recorded by the County or identified organization. The County or identified organization shall agree in writing to accept the OSCE and to be bound by the Stewardship Plan.
3. Identification of the Monitoring and Enforcement provisions of the OSCE to fully distinguish between responsibilities for short-term, and long-term monitoring in perpetuity and between responsibilities held by the County, nonprofit conservation organization, or by the permit holder(s); and
4. The Open Space or Conservation Easement Stewardship Plan shall in no way conflict with the requirements of this condition or with the requirements of adopted mitigation measures.

Plan Requirements and Timing: An OSCE Stewardship Plan and Final Upland and Riparian Mitigation and Monitoring Plan shall be prepared either 1) jointly by the permit holder(s) of the Ocean and Inland lots to govern maintenance and management of the Open Space or Conservation Easements on both parcels; or 2) independently by each parcel owner to govern maintenance and management of the Open Space or Conservation Easement on that permit holder’s parcel. If the Open Space or Conservation Easement Stewardship Plan(s) and Final Upland and Riparian Mitigation and Monitoring Plan(s) are not submitted jointly, the independently prepared plans for the coastal lot shall be submitted prior to the issuance of Coastal Development Permits for the coastal lot and the independently prepared plans for the inland lot shall be submitted prior to the issuance of Coastal Development Permits for the inland lot. If the Open Space or Conservation Easement Stewardship Plan(s) and Final Upland and Riparian Mitigation and Monitoring Plan(s) are submitted jointly, the plan must be submitted prior to the issuance of the first Coastal Development Permit on either lot. The OSCE Stewardship Plan and Final Upland and Riparian Mitigation and Monitoring Plan shall be submitted for review and approval Planning and Development.

96. Public Access Offers-to-Dedicate. The proposed Public Access Offers-to-Dedicate (OTD) are shown on Attachment-H to the Memo to the Planning Commission, dated November 12, 2013 and are subject to the following requirements:

- (i) OTD Recordation. No later than 10 calendar days following Planning Commission approval of the proposed project, the applicant/property owner shall execute and submit to the Planning and Development Department and County Counsel an irrevocable OTD to the County for all areas on the Inland and Ocean lots within which permanent public easements for public pedestrian access and passive recreational use are proposed and shown on Attachment-H to the Memo to the Planning Commission dated November 12, 2013 (OTD areas). The OTD shall be in a form and content acceptable to the Planning and Development Department and the County Counsel. The OTD shall include a formal legal description of the entire property and a metes and bounds legal description and graphic depiction, prepared by a licensed surveyor, for each of the OTD areas being conveyed. Upon approval of the form and content of the OTD, the OTD shall be

recorded free of prior liens and encumbrances (other than existing and approved easements for roads, trails, and utilities) which the County determines may affect the interest being conveyed, and shall run with the land in favor of the County. The OTD shall be binding upon the owners of both the Inland and Ocean lots and their heirs, assigns, or successors in interest.

The OTD (and the subsequent alignment of the public access easements within the OTD areas, as addressed in subparagraph (ii) below) shall not become effective unless and until the first Coastal Development Permit for the proposed project is issued and the Project approval is “final” and no longer subject to administrative or judicial challenge. The Project approval shall be deemed “final” when all administrative appeal periods have expired without an appeal having been filed; or when all statutes of limitation for judicial challenge to the Project approval have expired without litigation being filed; or, if litigation is filed, when a successful defense in such litigation has resulted in a final judgment upholding the Project approval.

- (ii) **Alignment of Public Access Easements.** Upon acceptance of the OTD, the County shall determine the exact alignment of the specific public access easements within the OTD areas. The determination shall be made based on a site-specific analysis of the environmental conditions existing at the time and improvements related to the trail project would be subject to a separate CDP/CUP. The County shall record an official document to reflect the alignment of the specific public access easements. Until acceptance of the OTD, the OTD areas shall be included and managed as a part of the Open Space or Conservation Easement (described in conditions 94 and 95). Upon recordation of specific easement alignments, the accepted public access easements would be removed from the Open Space or Conservation Easement.
- (iii) **Public Access Easement Management.** Once the OTD has been accepted by the County, management and maintenance of the dedicated public access easement areas and the physical improvements within those easement areas shall be the responsibility of the County. The County may receive assistance and enter into partnerships with conservation organizations and nonprofit groups for the construction, management and maintenance of the public access easement areas and improvements.

97. Agricultural Envelopes. The perimeter of the “agricultural envelopes” proposed on the ocean and inland lots shall be fenced with low fencing of no greater than 4.5 feet in height. Fencing shall be post and wire fencing or similar type and the fencing style and material shall be approved by the Board of Architectural Review (BAR) prior to issuance of Coastal Development Permits. **Plan Requirements and Timing.** Plans for Coastal Development Permit issuance shall clearly indicate the location and type of fencing. Fencing shall be constructed along the perimeter of the approved agricultural envelopes. Fencing shall be shown on plans submitted for Coastal Development Permit issuance and shall be in place prior to Permit Compliance sign-off and prior to the start of livestock or horsekeeping on-site. **Monitoring.** Permit Compliance and Building and Safety staff shall confirm that fencing is in place prior to granting Permit Compliance sign-off.

98. Declaration of Land Use Restrictions. Prior to issuance Coastal Development Permits for the Ocean and Inland Estates, the applicant/property owners shall record a Declaration of Land Use Restrictions that includes a copy of all final conditions and mitigation measures approved for the proposed project. **Plan Requirements and**

Timing: Prior to CDH issuance the Declaration of Land Use Restrictions shall be submitted for review and approval by Planning and Development (P&D) staff.
Monitoring: Proof of recordation shall be submitted to P&D staff prior to CDH issuance.

- 99. Sensitive Resource Property Owner Acknowledgement.** Prior to issuance Coastal Development Permits for the Ocean and Inland Estates, the applicant shall submit for each property, an acknowledgement that they are aware of the responsibilities associated with living near the sensitive habitats and special-status species documented on the project site. The acknowledgement shall include specific information related to the seal haul-out, White-tailed kite, and other sensitive species occurring on the property as identified in the FEIR for the project, including an acknowledgement that trail and beach access closures apply to private homeowners on-site as well as the public and an acknowledgement that they (the property owner) are subject to the mitigation measures contained in final EIR 09EIR-00000-00003. **Plan Requirements and Timing:** Prior to CDH issuance the acknowledgement letter shall be submitted for review and approval by Planning and Development (P&D) staff. **Monitoring:** The acknowledgement letter shall be submitted to P&D staff prior to CDH issuance.
- 100. Oil Well Setback.** The proposed development envelope on the ocean lot shall be redesigned so that the boundary of the development envelope is located a minimum of 10 feet from any abandoned on-site oil wells. This revised development envelope shall be graphically illustrated on all plans. **Plan Requirements and Timing:** Prior to recordation of the development envelope boundaries for the Ocean Estate, plans showing the revised development envelope shall be submitted to Planning and Development for review and approval. Prior to issuance of the first Coastal Development Permit the boundaries of the development envelope shall be recorded and proof of recordation shall be submitted to P&D staff by the applicant. **Monitoring:** Development envelope boundaries shall be staked by in the field by a licensed surveyor prior to the start of grading and construction. P&D Permit Compliance staff shall confirm that staking is in place prior to grading and construction.