



January 18, 2023

Mayor Bob Whalen
Laguna Beach City Council
505 Forest Ave.
Laguna Beach, CA 92651
citycouncil@lagunabeachcity.net

Dr. Kate Huckelbridge
California Coastal Commission
455 Market Street, Suite 300
San Francisco, CA 94105
Kate.Huckelbridge@coastal.ca.gov

RE: Trail to the Sea Planning

Dear Mayor Whalen and Dr. Huckelbridge:

Friends of Harbors, Beaches and Parks (FHBP) and Endangered Habitats League (EHL) write over concerns from the recent agenda item heard in December by the California Coastal Commission (CCC) **Application No. 5-21-0910 (South Coast Water District, Laguna Beach)**. As we understand it, the planning for the Trail to the Sea has moved over to the City of Laguna Beach for consideration at a future February City Council meeting.

The topic of the Trail to Sea has historically been listed on the CCC agendas under the name **Laguna Beach Golf Course and Bungalow Village LLC**. This time it was slipped in under another topic—South Coast Water District—and a new Application Number—5-21-0910. To ensure appropriate public input on the item and for consistency's sake, the references to the Trail to the Sea should remain reliable throughout the duration of the application process and review. We ask that the City and Commission call it by its original name (**Application No. A-5-LGB-14-0034** (Laguna Beach Golf and Bungalow Village, LLC/The Ranch, Laguna Beach) to ensure the public understands what property, project, and geography is being included.

By way of background, FHBP was involved in the discussions leading up to the negotiation of a study for The Ranch in 2014. Our concerns at that time included the potential loss of the recreational opportunity identified in the City's Trail Plan and the County's Master Plan of Trails, the location of the trail at the bottom of the canyon, and the offer to dedicate being done *in advance* of any permit issuance. Sadly, our concerns remain the same today. Both FHBP and EHL would appreciate notifications of future agenda items related to this topic by both the City and CCC. FHBP has been submitting comments since the beginning.

Based on the December CCC agenda item, our concerns are as follows:

1. Likely Damage to Neighboring Mitigation Lands

FHBP and EHL were both negotiators for the creation of the Orange County Transportation Authority's (OCTA) OC Go Environmental Mitigation Program (EMP). The EMP allows for the acquisition, restoration, and management of lands to offset the impacts of 13 freeway project impacts. To date, the program has conserved 1,300 acres

and restored 350 acres. (See **Attachment 1**) Of particular interest to us is the Pacific Horizon Preserve, which is situated near the proposed Trail to the Sea. (See **Attachment 2**)

OCTA's Pacific Horizon Preserve is approximately 150 acres. It was protected due to its southern mixed chaparral and mixed sage scrub habitats on the hills above Laguna Beach. More specifically found on the Preserve are intermediate mariposa lily, many stemmed dudleya, paniculate tarplant, and big leaved crownbeard. These habitats are part of Environmentally Sensitive Habitat Areas (ESHA) as defined in the Coastal Act, Section 30107.5. The federally threatened California gnatcatcher was also surveyed and found on the property in 2015.

2. Direct Conflicts with the OCTA NCCP/HCP

This land, and all OCTA Preserves and restoration projects, are part of the OCTA Natural Community Conservation Plan (NCCP) and Habitat Conservation Plan (HCP), collectively called the Conservation Plan. The Conservation Plan took five years to develop and includes a list of specific permitted activities covered in the Plan that are allowed to occur. Pacific Horizon, like all the OCTA Preserves, has its own Resource Management Plan (RMP), which outlines the location of covered species, permitted activities, stewardship goals, and management requirements, etc. All of this is to protect 13 covered species in the Conservation Plan.

Based on the Pacific Horizon Preserve RMP, no trails exist where the proposed alignment of the Trail to the Sea is presently located. More importantly, no trails will be built on the Preserve in the future. OCTA has clearly documented where its trails for this Preserve will be located and what trails will be decommissioned. (See **Attachment 3**)

Of key concern is the fact that the early study map appears to allow a Trail to *Nowhere* that functionally dead ends in existing conserved lands that lead to the OCTA Pacific Horizon Preserve. (See **Attachment 4**) Adding a dead-end trail on a neighboring property invites violations and misuse of the Pacific Horizon Preserve. It also jeopardizes OCTA's permit. Further, a Trail to the Sea is not an authorized activity and actions to add a trail would require not only amending the Conservation Plan, but mitigating the impacts of the loss of habitat on these *mitigation* lands.

3. Direct Conflicts with the Central-Coastal NCCP/HCP

To further complicate this issue, the lands west of the property are protected via the Central-Coastal Conservation Plan. (See **Attachment 5**) Therefore, the same amendment and mitigation process would need to be completed with this Conservation Plan as well. Per the OCTA analysis of habitats of the Pacific Horizon Preserve and the neighboring City of Laguna Beach protected lands—these lands, where the trail is proposed—are of very high habitat value. (See **Attachment 6**)

4. Changed Location of the Trail from 2014 Coastal Development Permit (CDP) Application

Our concern stems from the fact that these issues were raised in 2014 by us and others and were not addressed at that time. Now, the Trail appears to be gaining traction. Oddly, it is not located in The Ranch's golf course connecting to OC Parks' Aliso and Wood Canyons Wilderness Park, but instead it is located on a steep hillside that will direct recreational users to the Hobo Aliso Ridge Conservation Easement lands and the protected mitigation property beyond—both with threatened and endangered species. FHBP's comments on this item back in 2014 anticipated the problems the applicant would face, but our concerns were disregarded. Now those problems have come to fruition.

5. Unmet Obligations from the 2014 CDP Application and Conditions

The CDP for Application No. A-5-LGB-14-0034 (Laguna Beach Golf and Bungalow Village, LLC/The Ranch, Laguna Beach) states that metes and bounds legal description and graphics are required to illustrate this proposed trail alignment on this "northerly" side of the property (meaning the Ranch property, not neighboring properties). It then goes on to say that what was submitted by The Ranch architect in December 2014 is generally acceptable. What is being proposed now on the hill above the Ranch leads to nowhere except high value habitat lands with conservation protections in place. It does NOT provide the accessible Trail to the Sea the CDP required.

On the bottom of page 3 of the CDP, it states that no later than *90 days* after the Certificate of Occupancy the offer to dedicate an easement for a public pedestrian and cycling trail must occur. It is our understanding that the Certificate of Occupancy for The Ranch was granted in 2016, but the Offer to Dedicate a Trail Easement has not yet occurred. Why is that?

This appears to be in direct violation of the CDP, Item 5 (page 3). (See **Attachment 7**) Additionally, the section goes on to say that "Any development, as defined in Section 30106 of the Coastal Act, that diminishes permanent pedestrian and cycling access and passive recreational use of the easement area is prohibited." Yes, a 90 day extension is feasible through the CCC's Executive Director, but is hard to imagine this 90 day extension has gone on for nearly eight years—upwards of 30 extensions. We request follow up to this item as well.

6. Lack of Collaboration With Neighboring Landowners/Managers

We are concerned that OCTA and neighboring OC Parks have been left out of the discussion since the trail's alignment will likely directly impact both conserved properties. Instead of bringing these agencies in at the last minute—after all approvals have been completed and an alignment approved by the City and CCC—we highly encourage bringing them in now to address any issues and concerns with the alignment which will directly impact both agencies, their land holdings, and Conservation Plans/restrictions. To bring the agencies in *after* approval is not only disrespectful of the public process and agency signoff related to the OCTA and Central Coastal Conservation Plans and the Pacific Horizon Preserve RMP, but also puts the land managers in a bind

should the trail not be feasible where proposed or the trail dead ends onto one of these properties causing direct damage to mitigation lands with ESHA.

Finally, we would also offer our expertise should it be needed. In the meantime, it is *unacceptable* that the CCC has let the process get this far down the road without collaboration with neighboring property owners and proper noticing to interested parties. We hope the City is able to turn the ship and address these concerns early.

Both organizations remain ready to assist if needed. You can reach FHBP's Melanie Schlotterbeck at: (714) 501-3133 or EHL's Dan Silver at (213) 804-2750.

Sincerely,



Michael Wellborn
President
Friends of Harbors, Beaches and Parks



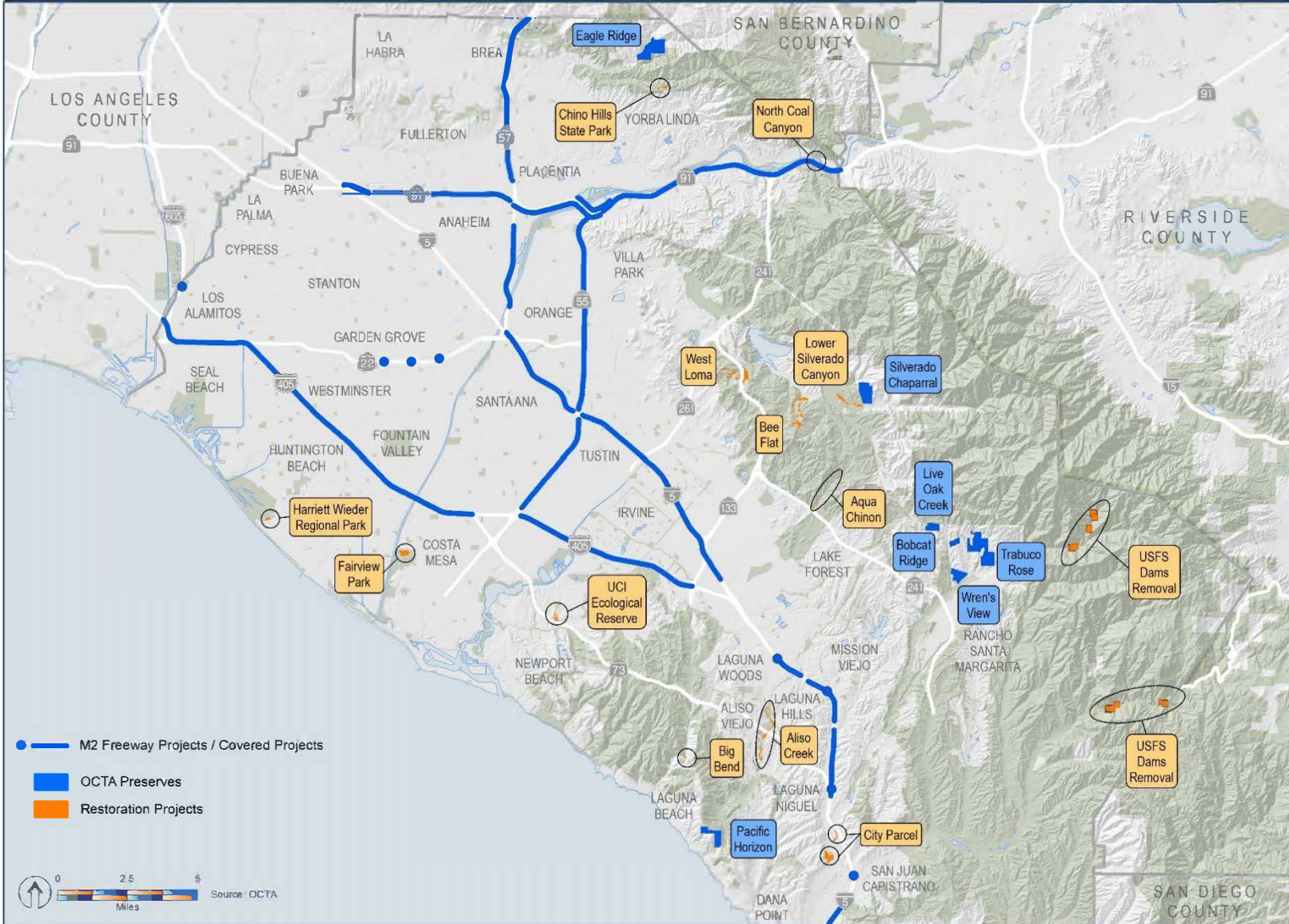
Dan Silver, MD
Executive Director
Endangered Habitats League

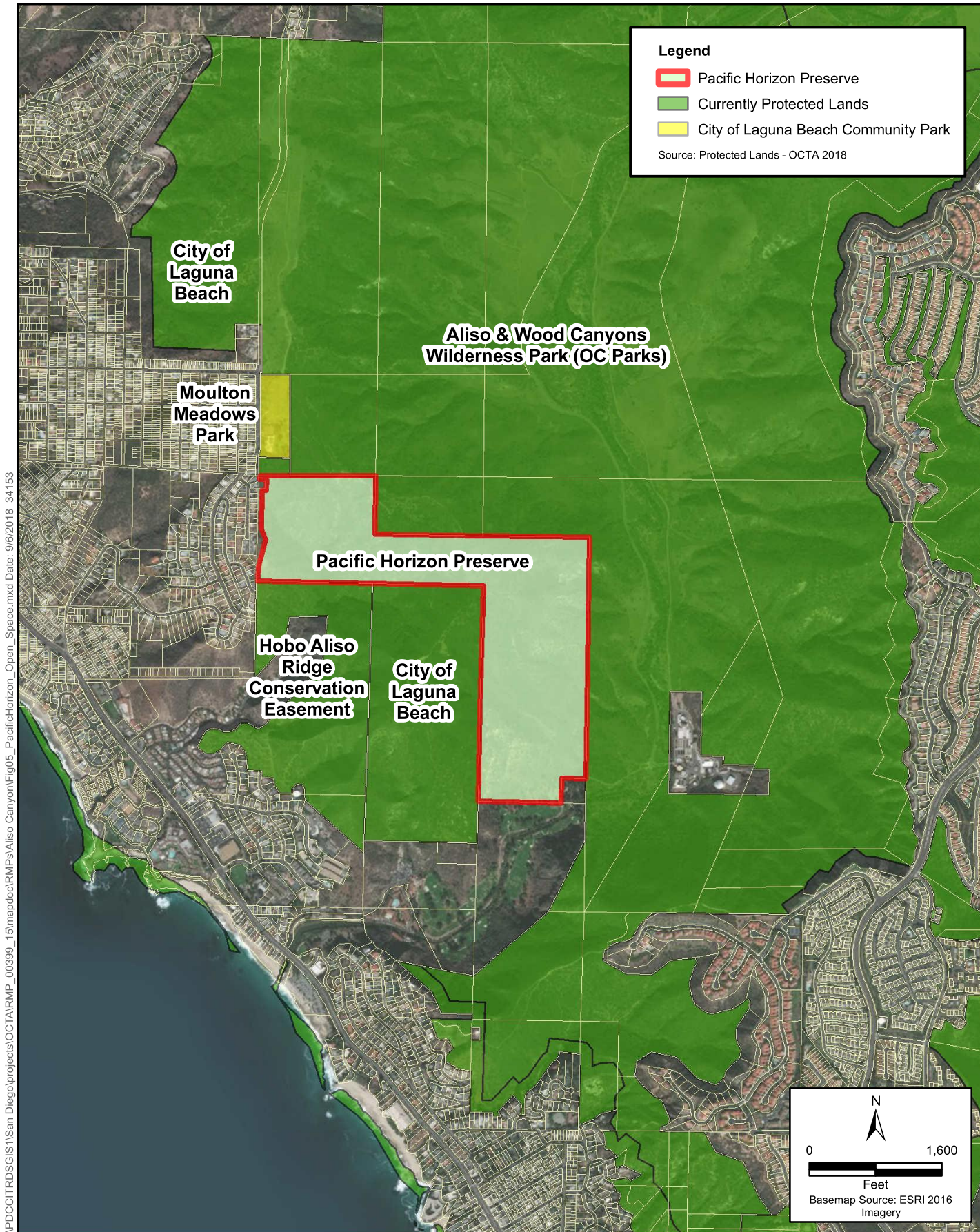
Attachments:

- 1 – OCTA Map of Preserves
- 2 – OCTA Pacific Horizon Location Map (RMP, Figure 5)
- 3 – OCTA Pacific Horizon Preserve Trail Map (RMP, Figure 15)
- 4 – OCTA Pacific Horizon Map with Trail to the Sea Overlay Map
- 5 – OCTA Pacific Horizon Map with Conservation Plans (RMP, Figure 4)
- 6 – OCTA Pacific Horizon Map with Habitat Values (RMP, Figure 6)
- 7 – CDP for Application No. A-5-LGB-14-0034

cc: Shohreh Dupuis, City Manager (shohreh.dupuis@lagunabeachcity.net)
Laguna Beach City Council (citycouncil@lagunabeachcity.net)
Anne Marie McKay, Laguna Beach City Clerk (amckay@lagunabeachcity.net)
Dan Phu, OCTA (dphu@octa.net)
Leslie Hill, OCTA (lhill@octa.net)
Pam Passow, OC Parks (pam.passow@ocparks.com)
Carol Roberts, USFWS (carol_a_roberts@fws.gov)
Will Miller, USFWS (william_b_miller@fws.gov)
Jennifer Turner, CDFW (jennifer.turner@wildlife.ca.gov)
David Mayer, CDFW (david.mayer@wildlife.ca.gov)
Andrew Willis, CCC (andrew.willis@coastal.ca.gov)
Louise Warren, CCC (louise.warren@coastal.ca.gov)
Karl Schwing, CCC (karl.schwing@coastal.ca.gov)

OCTA Preserves and Funded Restoration Projects

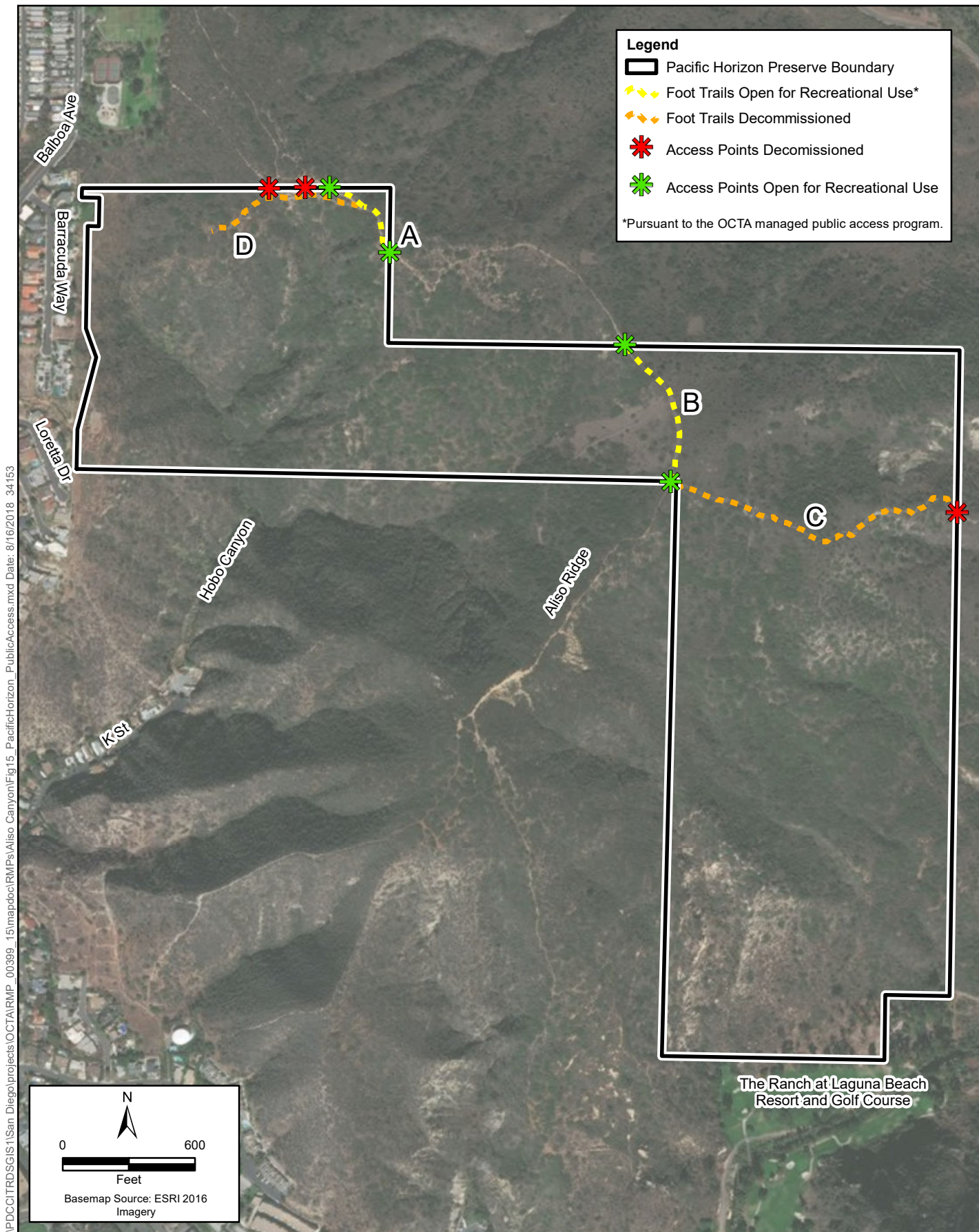




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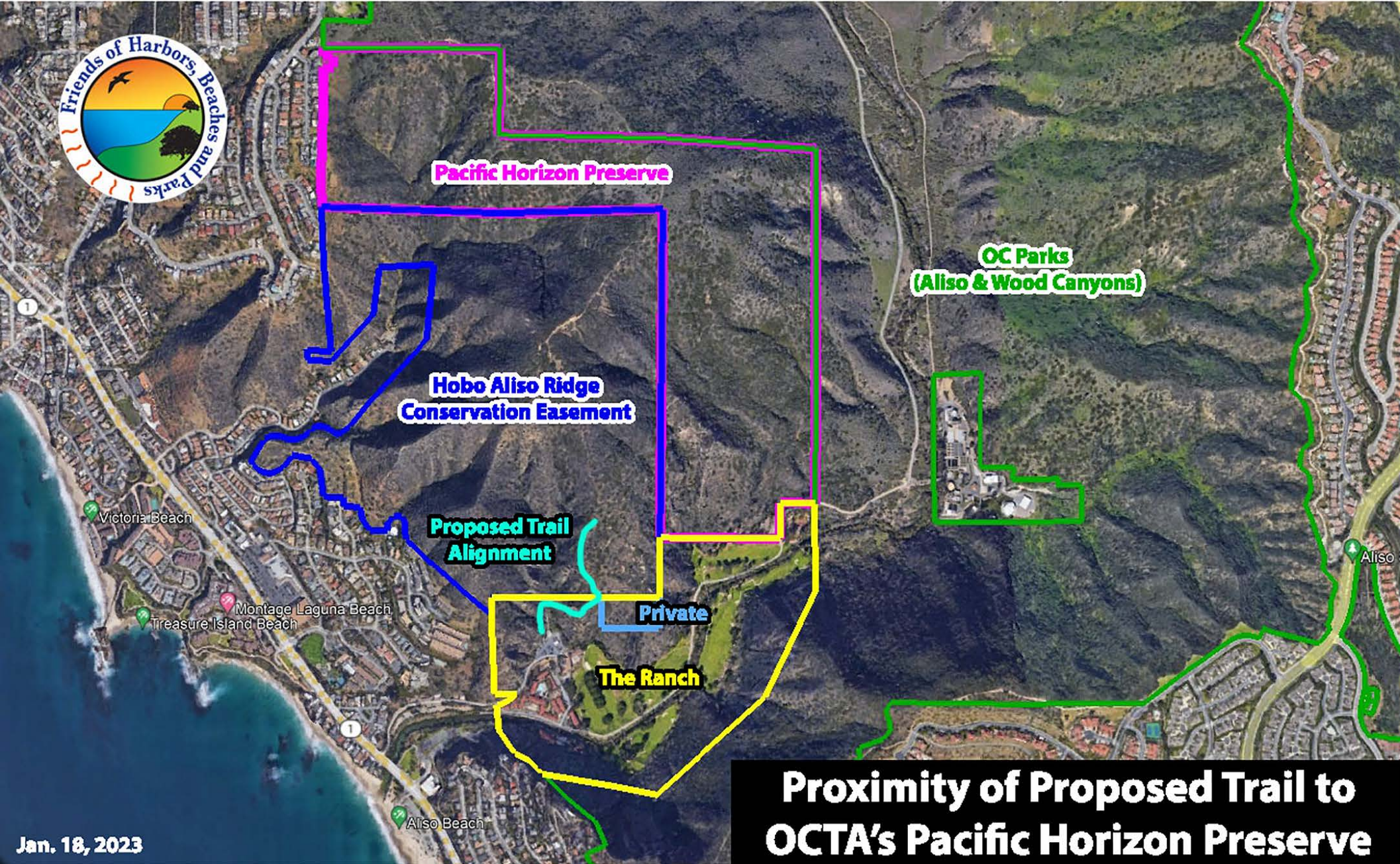
Figure 5
Open Space in Vicinity of Pacific Horizon Preserve
Pacific Horizon Preserve Resource Management Plan



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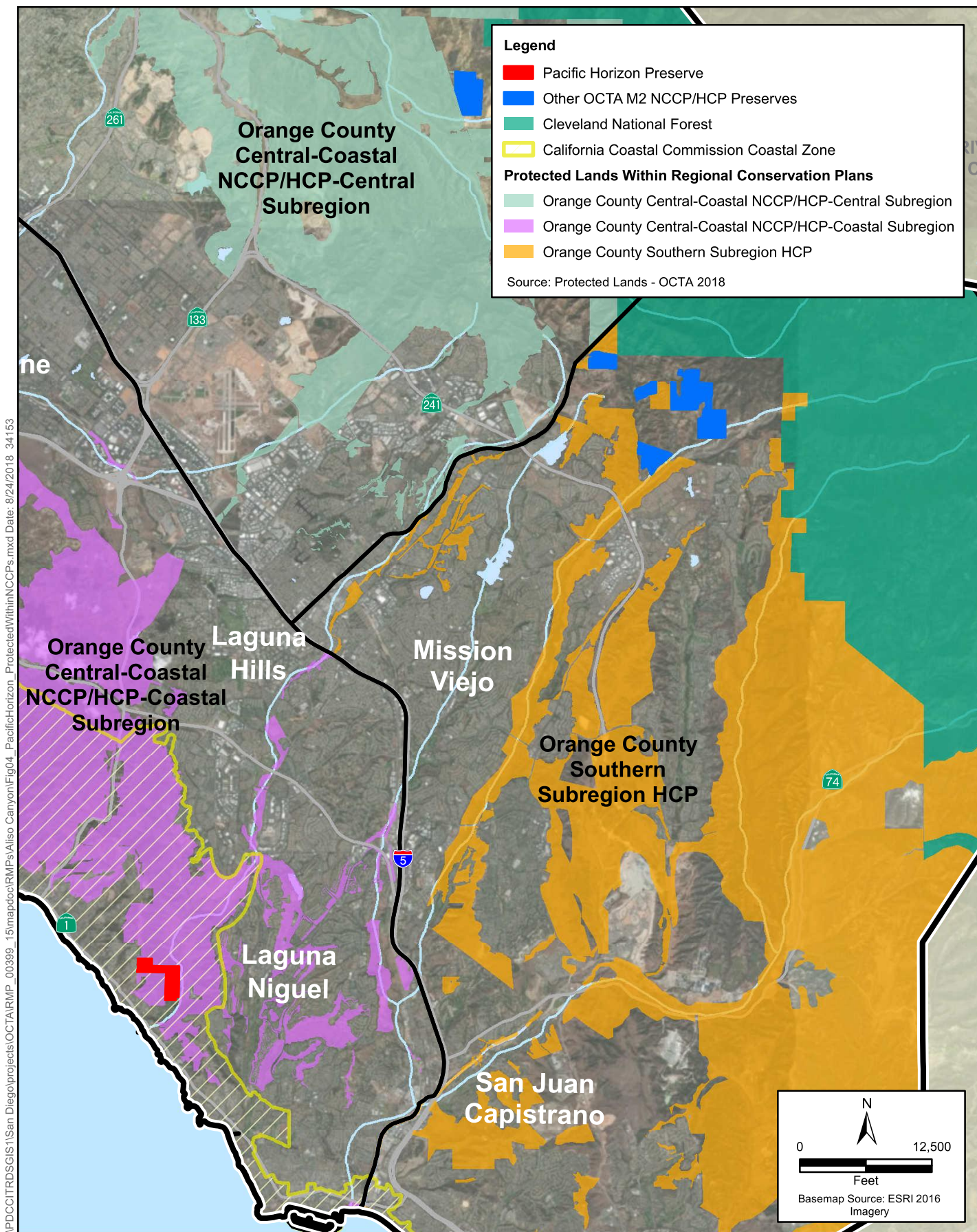


Figure 15
Public Access
Pacific Horizon Preserve Resource Management Plan



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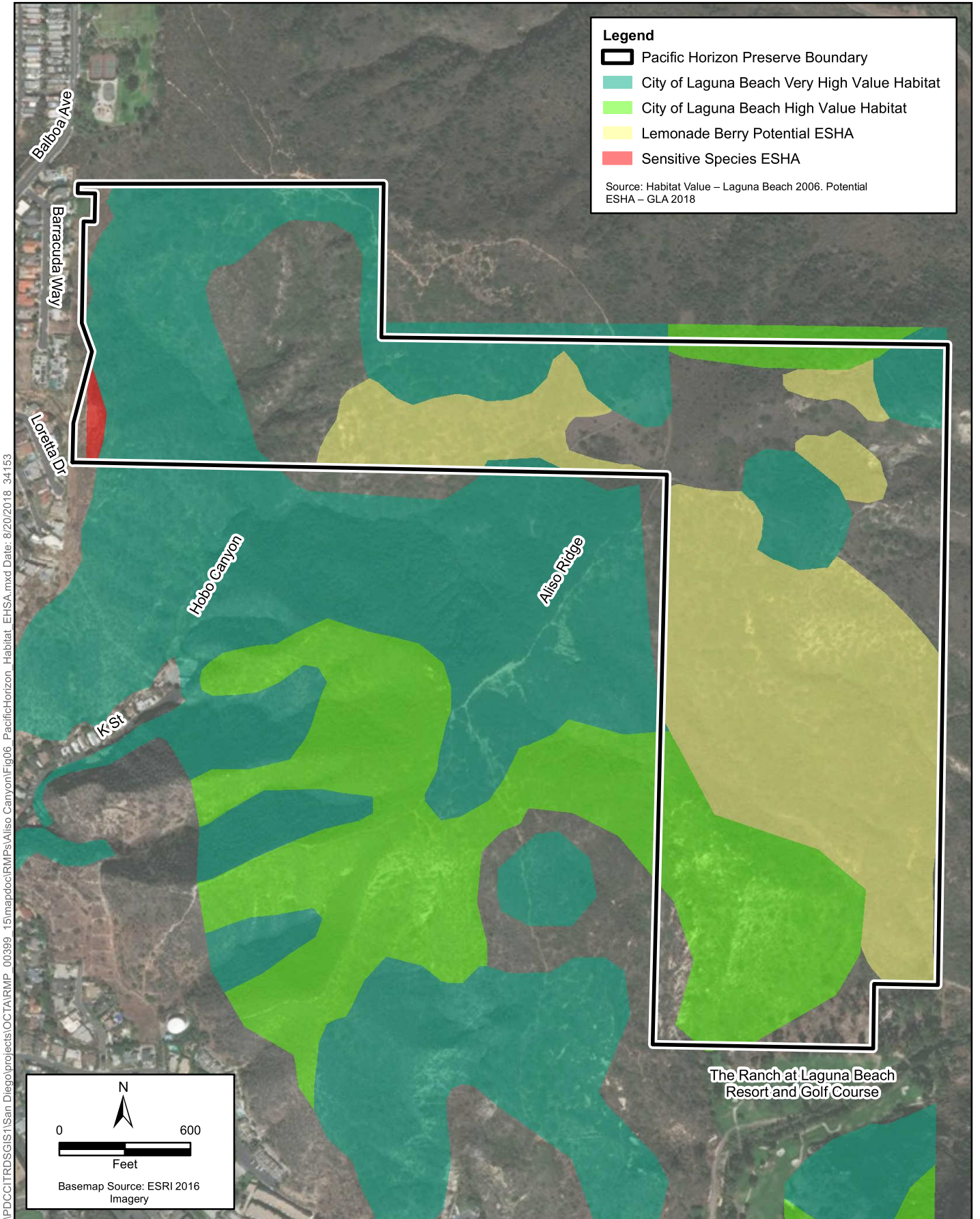
Proximity of Proposed Trail to OCTA's Pacific Horizon Preserve



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Figure 4
Protected Lands in Boundaries of Regional Conservation Plans
Pacific Horizon Preserve Resource Management Plan



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Figure 6
Habitat Value and Potential ESHA Map
Pacific Horizon Preserve Resource Management Plan

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
200 OCEANGATE, 10TH FLOOR
LONG BEACH, CALIFORNIA 90802-4416
PH (562) 590-5071 FAX (562) 590-5084
WWW.COASTAL.CA.GOV



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October 16, 2015

Permit Application No.: A-5-LGB-14-0034

COASTAL DEVELOPMENT PERMIT

On January 8, 2015, the California Coastal Commission granted to **Laguna Beach Golf And Bungalow Village, Llc** this permit subject to the attached Standard and Special conditions, for development consisting of **Expansion and remodel of former 64-room Aliso Creek Inn hotel, restaurant, banquet and golf course facility on 84 acre site to include addition of 33 hotel rooms, reconfiguration of restaurant and assembly areas; additions to existing structures; new spa, fitness center, employee lounge, and accessory structures; new valet parking program for assembly uses and special events; and establish outdoor event center at 'Scout Camp'**. Also proposed are an offer to dedicate a floating easement for a public pedestrian and cycling trail and a free youth camping program., more specifically described in the application filed in the Commission offices.

The development is within the coastal zone at **31106 Coast Highway, Laguna Beach (Orange County)** (APN(s): **056-240-47, 056-240-48, 056-240-49, 056-240-50, 056-240-51, 056-240-04**)

Issued on behalf of the California Coastal Commission by

Charles Lester
Executive Director

Erin Prahler
Coastal Program Analyst

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part of that: "A Public entity is not liable for injury caused by the issuance... of any permit..." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

Date:

10-16-15

Signature

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STANDARD CONDITIONS:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

1. **Mitigation for Impacts on Affordable/Lower Cost Overnight Accommodations & Visitor and Recreational Facilities.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall mitigate the proposed project's impacts on affordable overnight accommodations and lower cost visitor and recreational facilities by implementing the following:
 - A. In addition to the proposed Offer to Dedicate trail easement and group camping at the Scout Camp, the applicant shall pay a \$250,000 fee in-lieu of providing lower-cost overnight accommodations and visitor recreational facilities as described in Special Condition 2 to include a Memorandum of Understanding with an approved party subject to the review and approval of the Executive Director,
 - B. The applicant shall agree to record the proposed Offer to Dedicate in accordance with Special Condition 5; and implement the proposed group camping at the Scout Camp in accordance with Special Condition 7, and
 - C. The applicant shall install microwaves in all 97 rooms and ensure that at least 32 of the 97 newly renovated rooms can accommodate 4 or more guests with the provision of sleeper sofas.

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2. **In-lieu Fee as Mitigation for Impacts on Affordable/Lower Cost Overnight Accommodations & Visitor and Recreational Facilities.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall pay a fee for not providing lower-cost overnight hotel units on the project site.

A. The required total in-lieu fee of \$250,000 shall be deposited into an interest-bearing account, to be established and managed by one of the following entities approved by the Executive Director of the Coastal Commission: City of Laguna Beach, Orange County Parks, California Coastal Conservancy, California Department of Parks and Recreation, or a similar entity. The purpose of the account shall be for planning and permitting of a pedestrian and cycling trail, including identification of a trail alignment, with any funds remaining after planning is completed to be used for trail construction and maintenance. The entire fee and accrued interest shall be used for the above stated purpose, in consultation with the Executive Director, within ten years of the fee being deposited into the account. All development funded by this account will require review and approval by the Executive Director of the Coastal Commission and a coastal development permit. If any portion of the fee remains ten years after it is deposited, it shall be donated to one or more of the State Park units or non-profit entities providing lower cost visitor amenities in a Southern California coastal zone jurisdiction or other organization acceptable to the Executive Director. Alternative mitigation may include completion of a specific project that is comparable in cost to the amount of the in-lieu fee and makes a substantial contribution to the availability of lower cost visitor recreational facilities in Laguna Beach and/or other parts of the coastal zone of Orange County, subject to the review and written approval of the Executive Director.

B. Prior to expenditure of any funds contained in this account, the Executive Director shall review and approve, in writing, the proposed use of the funds as being consistent with the intent and purpose of this condition. In addition, the entity accepting the in-lieu fee funds required by this condition shall enter into a memorandum of understanding (MOU) with the Commission, which shall include, but not be limited to, the following: 1) a description of how the funds will be used to identify a trail alignment including planning, permitting and construction of the trail; 2) the terms provided in subsection A of this condition; and 3) an agreement that the entity accepting the funds will obtain all necessary regulatory permits and approvals, including but not limited to, a coastal development permit for development of the trail required by this condition.

3. [This Condition Deleted].

4. [This Condition Deleted].

5. **Offer to Dedicate Easement for a Public Pedestrian and Cycling Trail**

A. Offer to Dedicate Recordation. NO LATER THAN 90 DAYS FOLLOWING ISSUANCE OF A CERIFICATE OF OCCUPANCY OF THE APPROVED DEVELOPMENT, the land owner(s) shall execute and record document(s) in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency(ies) or non-profit entity(ies) acceptable to the Executive Director, a floating easement for a public pedestrian and cycling trail generally located along the northerly side of the Property ("Easement Area"). The

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recorded document(s) shall include metes and bounds legal descriptions and corresponding graphic depictions prepared by a licensed surveyor of both the applicant's entire parcel(s) and the easement areas. The offer shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. Any development, as defined in Section 30106 of the Coastal Act, that diminishes permanent pedestrian and cycling access and passive recreational use of the easement area is prohibited. The Easement Area offered by the applicant is generally depicted on the plan titled "RANCH Temporary Shuttle and Hiking/Biking Trail Easement Locations," prepared by Morris Skendarian & Associates, A.I.A., and dated December 12, 2014, and received in the Commission's offices on December 15, 2014. The Executive Director may extend, in writing, for good cause the 90-day period for execution and recordation of the offer.

B. Alignment of Public Access Easements. Upon acceptance of the offered dedication described in Part A of this condition, the accepting entity shall determine the exact alignment of the public pedestrian and cycling trail within the Easement Area. The determination shall be based on a site-specific analysis of the environmental conditions existing at the time and physical improvements related to construction of the public pedestrian and cycling trail, and would be subject to an amendment to this permit or a separate Coastal Development Permit, as determined by the Executive Director of the Commission.

C. Public Trail Access Easement Management. Once the offered dedication described in Part A of this condition has been accepted, management and maintenance of the Easement Area and physical improvements constructed within the Easement Area shall be the responsibility of the accepting entity. The accepting entity may receive assistance and enter into partnerships with public entities, conservation organizations, and nonprofit groups for the construction, management, and maintenance of the Easement Area and physical improvements.

6. **Alternative Trail Alignment.** Nothing in this coastal development permit shall be construed as precluding the consideration of any public trail alignment alternatives to connect the Aliso and Wood Canyons Wilderness Park to Aliso Beach through the Ranch property that is the subject of this permit, including an alignment that may be partially or wholly located outside the easement offered pursuant to Special Condition 5.
7. **Group Camping at Scout Camp.** As proposed by the applicant and to mitigate the impact of the proposed development on affordable overnight accommodations, by acceptance of this coastal development permit, the applicant and all successors and assigns agree to host at least 12 overnight, small group (40 person maximum) camping experiences at the Scout Camp per year, at no cost. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a group camping management plan that includes, but is not limited to, the following:
 - A. Methods to be utilized for advertising to non-profit groups including but not limited to underprivileged youths, scouting organizations and the like;
 - B. Mechanisms for booking a minimum of 12 groups per year;

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- C. Method for accounting and reporting use of the campsite to the Executive Director annually; and
- D. Provision of all camping equipment necessary to support the overnight campout, including, but not limited to, tents, sleeping bags, etc.

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

8. **Parking.** The permittee shall make a minimum of 214 parking spaces available during regular operations of the hotel, restaurant and golf course. During all hours of operation for assembly events, the permittee shall provide 290 parking spaces by operation of the valet parking program described in the *Aliso Creek Inn & Golf Course Project Traffic Impact and Parking Analysis* dated April 16, 2014.
9. **Fitness Center.** The new fitness center shall only be available to hotel guests. The fitness center shall not be available to non-hotel guests unless the applicant can provide parking onsite for this use consistent with the requirements of the City of Laguna Beach Municipal Code.
10. **Assembly Use.** Only one event may be held on the property at any time that would increase the parking requirement up to the maximum number of spaces that can be provided onsite consistent with the valet parking program detailed in the April 16, 2014 *Aliso Creek Inn & Golf Course Project Traffic Impact and Parking Analysis*.
11. **Removal and Revegetation Plan for Scout Camp Parcel.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director, a final removal and revegetation plan describing the removal of unpermitted development, except the approximately 7,000 square foot concrete pad, within 100 feet of Aliso Creek in the Scout Camp parcel and replanting of the removal area. Post and cable fencing shall be installed 25 feet from the top of bank of Aliso Creek and from native scrub habitat to prevent intrusion into these buffer zones. The revised plan shall be consistent with the recommendations contained in the Memorandum titled Biological Analysis of the Proposed Restoration at the Scout Camp area of The Ranch in Laguna Beach, dated December 17, 2014 by Dr. Koteen and attached to the staff report dated December 23, 2014 as Exhibit 14. The applicants shall replace any Eucalyptus trees removed pursuant to Dr. Koteen's recommendation with native trees. The final plan shall identify the Eucalyptus to be removed and the tree species that will replace the Eucalyptus.

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

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12. **Camping and Event Use at the Scout Camp.** The Scout Camp parcel may be used for events, including small group (40 or fewer people) overnight camping, subject to the following restrictions:
- A. The City of Laguna Beach determines that use of the site for events is consistent with Chapter 25.42 of the Municipal Code;
 - B. Events will be limited to daytime use only;
 - C. Events will be limited to a maximum of 150 people;
 - D. The total number of events per month will not exceed twelve (12), including primitive camping experiences;
 - E. Fencing (e.g., post and cable) shall be installed 25 feet from the top of bank of Aliso Creek and from native scrub habitat to prevent intrusion into these buffer zones;
 - F. Tear down of events shall be completed within 2 hours after sunset, but no later than 2200 hours (10 PM);
 - G. Decibel levels will be maintained at 65db or lower at the property line; and
 - H. There shall be no glare or light intrusion into surrounding native habitat areas..

In addition, and PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the following plans must be submitted for review and approval of the Executive Director:

- I. A noise management plan describing how decibel limits will be monitored and enforced;
- J. A lighting plan including hours of use and only temporary LED low level decorative lighting fully shielded toward the sky and consistent with the Laguna Beach lighting ordinances for any luminaires and lamps to be used during event tear down and camping events;
- K. A landscaping plan for the area of the Scout Camp outside the 100 foot removal and revegetation buffer, including a planting palette; and
- L. A group camping management plan, consistent with the requirements of Special Condition 7.

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

13. **Tree Trimming and Tree Removal Policy.** This coastal development permit approves annual and emergency tree trimming activities consistent with the following policy:

The purpose of this policy is to ensure the protection of bird nesting habitat protected by the Migratory Bird Treaty Act and the long-term protection of breeding, roosting, and nesting habitat of state and federally listed bird species, California bird species of special concern, and bird species that play an especially valuable role in the ecosystem. This policy is also intended to ensure the protection of roosting California bat species of special concern and wintering Monarch butterflies. The permittee is obligated to trim trees for the safety of the public and the

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protection of property. The trimming or removal of any tree that has been used for bird breeding and nesting or bat or butterfly roosting within the past five years, determined by a qualified biologist, shall be undertaken in compliance with all applicable codes or regulations of the California Department of Fish and Game, the U.S. Fish and Wildlife Service and the U.S. Migratory Bird Treaty Act, and shall be conducted under the parameters described below.

Tree trimming or tree removal shall be prohibited during the breeding and nesting season of the bird species referenced above (February 1 through August 31) unless the permittee, in consultation with a qualified arborist, determines that a tree causes danger to public health and safety. A health and safety danger exists if an independent qualified arborist in consultation with a qualified biologist determines that a tree or branch is dead, diseased, dying, or injured and said tree or branch is in imminent danger of collapse or breaking away. The permittee shall be proactive in identifying and addressing diseased, dying or injured trees as soon as possible in order to avoid habitat disturbances during bird nesting season. Trees or branches with a nest that has been active anytime within the last five years shall not be removed or disturbed unless a health and safety danger exists.

Prior to trimming, a qualified biologist shall determine if trees are being used by roosting bats or wintering butterflies. If bats are found on a particular tree, or have been found in the previous five years, tree trimming should be confined to November and December when bats are least active. Tree trimming shall not occur on trees occupied by butterflies, or on trees within 300 ft. of occupied trees, until after the butterflies have migrated from the region. If Monarch butterflies do begin to overwinter in trees at The Ranch, a qualified Monarch biologist must develop a habitat protection and maintenance plan prior to trimming any trees within the roosting grove.

The removal of any tree with documented use for raptor nesting, bat roosting, or Monarch wintering shall require mitigation at a 1:1 ratio. A tree replacement planting plan for each tree replacement shall be developed to specify replacement tree location, tree type, tree size (no less than 36" box size), planting specifications, and a five-year monitoring program with specific performance standards. An annual monitoring report for tree replacement shall be submitted for the review and approval of the Executive Director of the Coastal Commission. The permittee shall maintain the annual reports on file as public information and to be used for future tree trimming and removal decisions.

A. Tree Trimming During Non-Breeding and Non-Nesting Season (October through December)

- 1) Prior to tree trimming or removal, a qualified biologist or ornithologist shall survey the trees to be trimmed or removed to detect nests and submit a survey report to the permittee and the Executive Director of the Coastal Commission. The survey report shall include identification of all trees with nests. The permittee shall maintain a database of survey reports that includes a record of nesting trees that is available as public information and to be used for future tree trimming and removal decisions.
- 2) Any trimming of trees with nests shall be supervised by a qualified biologist or ornithologist and a qualified arborist to ensure that adequate nest support and foliage

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coverage is maintained in the tree, to the maximum extent feasible, in order to preserve the nesting habitat. Trimming of any nesting trees shall occur in such a way that the support structure of existing nests will not be trimmed and existing nests will be preserved, unless the permittee, in consultation with a qualified arborist, determines that such trimming is necessary to protect the health and safety of the public. The amount of trimming at any one time shall be limited to preserve the suitability of the nesting tree for breeding and/or nesting habitat. Trees or branches with a nest that has been active anytime within the last five years shall not be removed or disturbed unless a health and safety danger exists, as defined in this special condition, above.

- 3) Trimming may not proceed if a nest is found and evidence of courtship or nesting behavior is observed at the site. In the event that any birds continue to occupy trees during the non-nesting season, trimming shall not take place until a qualified biologist or ornithologist has assessed the site, determined that courtship behavior has ceased, and given approval to proceed within 300 feet of any occupied tree.

B. Tree Trimming or Removal During Breeding and Nesting Season (February 1 through August 31). If tree trimming or removal activities cannot feasibly avoid the breeding season because a health and safety danger exists, the following guidelines must be followed:

- 1) A qualified biologist or ornithologist shall conduct surveys and submit a report at least one week prior to the trimming or removal of a tree (only if it is posing a health or safety danger) to detect any breeding or nesting behavior in or within 300 feet of the work area. A tree trimming and/or removal plan shall be prepared by a qualified arborist in consultation with the qualified biologist or ornithologist. The survey report and tree trimming and/or removal plan shall be submitted for the review and approval of the Executive Director of the Coastal Commission, the California Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, and the applicant. The applicant shall maintain the plans on file as public information and to be used for future tree trimming and removal decisions. The plan shall incorporate the following:
 - a. A description of how work will occur.
 - b. Work must be performed using non-mechanized hand tools to the maximum extent feasible.
 - c. Limits of tree trimming and/or removal shall be established in the field with flagging and stakes or construction fencing.
 - d. Steps shall be taken to ensure that tree trimming will be the minimum necessary to address the health and safety danger while avoiding or minimizing impacts to breeding and nesting birds and their habitat.
- 2) Prior to commencement of tree trimming and/or removal the applicant shall notify in writing the Executive Director of the Coastal Commission, the California Department of Fish and Wildlife, and the U.S. Fish and Wildlife Service of the intent to commence tree trimming or removal.

C. Eucalyptus Tree Trimming or Removal

- 1) Prior to tree trimming or removal, a qualified biologist shall survey the trees to be trimmed or removed to detect evidence of bat roosting and submit a survey report to

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the permittee and the Executive Director of the Coastal Commission. The survey report shall include identification of all trees with evidence of bat roosting. The permittee shall maintain a database of survey reports that includes a record of roosting trees that is available as public information and to be used for future tree trimming and removal decisions.

- 2) Any trimming of trees with evidence of bat roosting shall be supervised by a qualified biologist and a qualified arborist to ensure that adequate foliage coverage is maintained in the tree, to the maximum extent feasible, in order to preserve the roosting habitat, unless the permittee, in consultation with a qualified arborist, determines that such trimming is necessary to protect the health and safety of the public. The amount of trimming at any one time shall be limited to preserve the suitability of the roosting tree for bat roosting habitat. Trees or branches with evidence of active roosting anytime within the last five years shall not be removed or disturbed unless a health and safety danger exists, as defined in this special condition, above.
- 3) Trimming may not proceed if roosting is observed at the site until a qualified biologist has assessed the site and given approval to proceed within 300 feet of any occupied tree.

D. Tree Trimming or Removal During Monarch Roosting Season (September through February). If tree trimming or removal activities cannot feasibly avoid the overwintering season because a health and safety danger exists, the following guidelines must be followed:

- 1) A qualified biologist shall conduct surveys and submit a report at least one week prior to the trimming or removal of a tree (only if it is posing a health or safety danger) to detect any monarch roosting behavior in or within 300 feet of the work area. A tree trimming and/or removal plan shall be prepared by a qualified arborist in consultation with the qualified biologist. The survey report and tree trimming and/or removal plan shall be submitted for the review and approval of the Executive Director of the Coastal Commission, the California Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, and the applicant. The applicant shall maintain the plans on file as public information and to be used for future tree trimming and removal decisions. The plan shall incorporate the following:
 - a. A description of how work will occur.
 - b. Work must be performed using non-mechanized hand tools to the maximum extent feasible.
 - c. Limits of tree trimming and/or removal shall be established in the field with flagging and stakes or construction fencing.
 - d. Steps shall be taken to ensure that tree trimming will be the minimum necessary to address the health and safety danger while avoiding or minimizing impacts to roosting monarchs or their habitat.
- 2) Prior to commencement of tree trimming and/or removal the applicant shall notify in writing the Executive Director of the Coastal Commission, the California Department of Fish and Wildlife, and the U.S. Fish and Wildlife Service of the intent to commence tree trimming or removal.

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All tree trimming and tree removal shall be conducted in strict compliance with this policy. All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location. Any proposed change or deviation from the approved policy must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required.

14. **Resource Agencies.** The permittee shall comply with all requirements, requests and mitigation measures from the California Department of Fish and Wildlife, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

15. **Construction Best Management Practices.**

A. The permittee shall comply with the following construction-related requirements:

- 1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
- 2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- 3) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into stream or coastal waters;
- 4) Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control dust and sedimentation impacts to stream or coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into stream or coastal waters; and
- 5) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

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

- 1) The applicant shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible;
- 2) The applicant shall develop and implement spill prevention and control measures;
- 3) The applicant shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged

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into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50-feet away from a stormdrain, open ditch or surface water; and

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

16. Final Water Quality Management Plan.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit for the review and approval of the Executive Director, two (2) copies of a Final Water Quality Management Plan (WQMP) for the post-construction project site, prepared by a licensed water quality professional, and shall include plans, descriptions, and supporting calculations. The WQMP shall be in substantial conformance with the Water Quality Management Plan (WQMP) dated August 25, 2014 prepared by Adam L. Toal, and shall include all development approved by this permit, including the development at the Scout Camp. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- 1) The WQMP shall incorporate appropriate structural and non-structural Best Management Practices (BMPs) (site design, source control and treatment control) into the development, designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site;
- 2) Impervious surfaces, especially directly connected impervious areas, shall be minimized, and alternative types of pervious pavement shall be used where feasible;
- 3) Trash, recycling and other waste containers, as necessary, shall be provided. All waste containers anywhere within the development shall be covered, watertight, and designed to resist scavenging animals;
- 4) Runoff from all roofs, roads and parking areas shall be collected and directed through a system of structural BMPs including vegetated areas and/or gravel filter strips or other vegetated or media filter devices. The system of BMPs shall be designed to a) trap sediment, particulates and other solids and b) remove or mitigate pollutants of concern (including trash, debris and vehicular fluids such as oil, grease, heavy metals and hydrocarbons) through infiltration, filtration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff from the developed site in a non-erosive manner;
- 5) Post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs;
- 6) All structural and/or treatment control BMPs shall be designed, installed, and maintained for the life of the project in accordance with well-recognized and accepted design principles and guidelines, such as those contained in the California Stormwater Quality Association Best Management Practice Manuals;
- 7) At a minimum, all BMP traps/separators and/or filters shall be, at a minimum, inspected and cleaned/repaired or otherwise maintained in accordance with the

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following schedule: (a) prior to the start of the winter storm season, no later than October 15th each year, (b) inspected monthly thereafter for the duration of the rainy season (October 15 -April 30), and cleaned/maintained as necessary based on inspection and, (c) inspected and maintained where needed throughout the dry season;

- 8) Debris and other water pollutants removed from structural BMP(s) during clean out shall be contained and disposed of in a proper manner;
- 9) It is the permittee's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specifications.

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

17. Area of Potential Archaeological Significance.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, an archeological monitoring plan prepared by a qualified professional that shall incorporate the following measures and procedures:

- 1) If any cultural deposits are discovered during project construction, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or artifacts, the permittee shall carry out significance testing of said deposits and, if cultural deposits are found to be significant, additional investigation and mitigation in accordance with this special condition including all subsections. No significance testing, investigation or mitigation shall commence until the provisions of this special condition are followed, including all relevant subsections;
- 2) If any cultural deposits are discovered, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or artifacts, all construction shall cease in accordance with subsection B of this special condition;
- 3) In addition to recovery and reburial, in-situ preservation and avoidance of cultural deposits shall be considered as mitigation options, to be determined in accordance with the process outlined in this condition, including all subsections;
- 4) Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, Native American monitor(s) with documented ancestral ties to the area appointed consistent with the standards of the Native American Heritage Commission (NAHC), and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD, shall monitor all project grading that has any potential to uncover or otherwise disturb cultural deposits;
- 5) The permittee shall provide sufficient archeological and Native American monitors to assure that all project grading that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times;

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- 6) If human remains are encountered, the permittee shall comply with applicable State and Federal laws. Procedures outlined in the monitoring plan shall not prejudice the ability to comply with applicable State and Federal laws, including but not limited to, negotiations between the landowner and the MLD regarding the manner of treatment of human remains including, but not limited to, scientific or cultural study of the remains (preferably non-destructive); selection of in-situ preservation of remains, or recovery, repatriation and reburial of remains; the time frame within which reburial or ceremonies must be conducted; or selection of attendees to reburial events or ceremonies. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Where appropriate and consistent with State and Federal laws, the treatment of remains shall be decided as a component of the process outlined in the other subsections of this condition.
 - 7) Prior to the commencement and/or re-commencement of any monitoring, the permittee shall notify each archeological and Native American monitor of the requirements and procedures established by this special condition, including all subsections. Furthermore, prior to the commencement and/or re-commencement of any monitoring, the permittee shall provide a copy of this special condition, the archeological monitoring plan approved by the Executive Director, and any other plans required pursuant to this condition and which have been approved by the Executive Director, to each monitor.
- B. If an area of cultural deposits, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or artifacts, is discovered during the course of the project, all construction activities in the area of the discovery that has any potential to uncover or otherwise disturb cultural deposits in the area of the discovery and all construction that may foreclose mitigation options or the ability to implement the requirements of this condition shall cease and shall not recommence except as provided in subsection C and other subsections of this special condition. In general, the area where construction activities must cease shall be 1) no less than a 100 foot wide buffer around the cultural deposit; and 2) no more than the commercial development area within which the discovery is made.
- C. An applicant seeking to recommence construction following discovery of the cultural deposits shall submit a Significance Testing Plan for the review and approval of the Executive Director. The Significance Testing Plan shall identify the testing measures that will be undertaken to determine whether the cultural deposits are significant. The Significance Testing Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), and the Most Likely Descendent (MLD) when State Law mandates identification of a MLD.
- 1) If the Executive Director approves the Significance Testing Plan and determines that the Significance Testing Plan's recommended testing measures are de minimis in nature and scope, the significance testing may commence after the Executive Director informs the permittee of that determination.

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- 2) If the Executive Director approves the Significance Testing Plan but determines that the changes therein are not de minimis, significance testing may not recommence until after an amendment to this permit is approved by the Commission.
- 3) Once the measures identified in the significance testing plan are undertaken, the permittee shall submit the results of the testing to the Executive Director for review and approval. The results shall be accompanied by the project archeologist's recommendation as to whether the findings are significant. The project archeologist's recommendation shall be made in consultation with the Native American monitors and the MLD when State Law mandates identification of a MLD. The Executive Director shall make the determination as to whether the deposits are significant based on the information available to the Executive Director. If the deposits are found to be significant, the permittee shall prepare and submit to the Executive Director a supplementary Archeological Plan in accordance with subsection D of this condition and all other relevant subsections. If the deposits are found to be not significant, then the permittee may recommence grading in accordance with any measures outlined in the significance testing program.

D. An applicant seeking to recommence construction following a determination by the Executive Director that the cultural deposits discovered are significant shall submit a supplementary Archaeological Plan for the review and approval of the Executive Director. The supplementary Archeological Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), the Most Likely Descendent (MLD) when State Law mandates identification of a MLD, as well as others identified in subsection E of this condition. The supplementary Archeological Plan shall identify proposed investigation and mitigation measures. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Mitigation measures considered may range from in-situ preservation to recovery and/or relocation. A good faith effort shall be made to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, capping, and placing cultural resource areas in open space. In order to protect cultural resources, any further development may only be undertaken consistent with the provisions of the Supplementary Archaeological Plan.

- 1) If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after the Executive Director informs the permittee of that determination.
- 2) If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.

E. Prior to submittal to the Executive Director, all plans required to be submitted pursuant to this special condition, except the Significance Testing Plan, shall have received review and written comment by a peer review committee convened in accordance with current professional practice that shall include qualified archeologists and representatives of Native American groups with documented ancestral ties to the area. Names and qualifications of

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selected peer reviewers shall be submitted for review and approval by the Executive Director. The plans submitted to the Executive Director shall incorporate the recommendations of the peer review committee. Furthermore, upon completion of the peer review process, all plans shall be submitted to the California Office of Historic Preservation (OHP) and the NAHC for their review and an opportunity to comment. The plans submitted to the Executive Director shall incorporate the recommendations of the OHP and NAHC. If the OHP and/or NAHC do not respond within 30 days of their receipt of the plan, the requirement under this permit for that entities' review and comment shall expire, unless the Executive Director extends said deadline for good cause. All plans shall be submitted for the review and approval of the Executive Director.

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

18. **Submittal of Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director two (2) sets of final architectural plans, grading plans, drainage and run-off control plans, and landscaping plans that substantially conform with the plans submitted to the Commission on June 17, 2014 and August 18, 2014, with the addition of development at the Scout Camp.

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

19. **Future Improvements.** This permit is only for the development described in Coastal Development Permit A-5-LGB-14-0034. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to this development governed by the Coastal Development Permit A-5-LGB-14-0034. Accordingly, any future improvements to the structures authorized by this permit, including but not limited to, repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit A-5-LGB-14-0034 from the Commission.
20. **Landscaping -- Drought Tolerant, Non-Invasive Plants.** No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized

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within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://ucanr.edu/sites/WUCOLS/>).

21. **Liability for Costs and Attorneys Fees.** By acceptance of this permit, the applicant/permittee agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the applicant/permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

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