

RESPONSE TO COMMENTS FOR  
DRAFT MITIGATED NEGATIVE DECLARATION NO. 19-004

- I. This document serves as the Response to Comments on the Draft Mitigated Negative Declaration (MND) No. 19-004. This document contains all information available in the public record related to General Plan Amendment No. 19-002/Zoning Map Amendment No. 19-002/Local Coastal Program Amendment No. 19-001 (Park Avenue Rezone) as of October 15, 2019 and responds to comments in accordance with Section 15088 of the California Environmental Quality Act (CEQA) Guidelines.

This document contains four sections. In addition to this Introduction, these sections are Public Participation and Review, Comments, and Responses to Comments.

The Public Participation section outlines the methods the City of Huntington Beach has used to provide public review and solicit input on the Draft MND. The Comments section contains those written comments received from agencies, groups, organizations, and individuals as of August 16, 2019. The Response to Comments section contains individual responses to each comment.

It is the intent of the City of Huntington Beach to include this document in the official public record related to the Draft MND. Based on the information contained in the public record, the decision makers will be provided with an accurate and complete record of all information related to the environmental consequences of the project.

II. PUBLIC PARTICIPATION AND REVIEW

The City of Huntington Beach notified all responsible and interested agencies and interested groups, organizations, and individuals that Draft MND No. 19-004 had been prepared for the proposed project. The City also used several methods to solicit input during the review period for the preparation of the Draft MND. The following is a list of actions taken during the preparation, distribution, and review of the Draft MND.

1. An official 30-day public review period for the Draft MND was established. It began on July 18 and ended on August 16, 2019. Public comment letters were accepted by the City of Huntington Beach through August 16, 2019.
2. Notice of the Draft MND was published in the Huntington Beach Wave on July 18, 2019. Upon request, copies of the document were distributed to agencies, groups, organizations, and individuals.

III. COMMENTS

Copies of all written comments received as of August 16, 2019 are contained in Appendix A of this document and all comments have been numbered. Response to Comments for each comment, which raised an environmental issue is contained in this document.

#### IV. RESPONSE TO COMMENTS

The Draft MND No. 19-004 was distributed to interested groups, organizations, and individuals. The report was made available for public review and comment for a period of 30 days. The public review period for the Draft MND commenced on July 18 and expired on August 16, 2019.

Copies of all documents received as of August 16, 2019 are contained in Appendix A of this report. Comments have been numbered with responses correspondingly numbered. Responses are presented for each comment which raised a significant environmental issue.

Several comments do not address the completeness or adequacy of the Draft MND or do not raise significant environmental issues. A substantive response to such comments is not appropriate within the context of the California Environmental Quality Act (CEQA). Such comments are responded to with a “comment acknowledged” reference. This indicates that the comment will be forwarded to all appropriate decision makers for their review and consideration.

**APPENDIX A**  
**COMMENTS ON DRAFT MND NO. 19-004**

Below is the only comment letter received, which has been bracketed to mark the individual comments. Comments that raise significant environmental issues are provided with a response. Comments that are outside of the scope of the CEQA review will be forwarded to the decision maker for consideration as part of the project review process.

<b>COMMENT LETTER RECEIVED DURING THE DRAFT MND COMMENT PERIOD</b>		
<i>No.</i>	<i>Commenter/Organization</i>	<i>Abbreviation</i>
	<b>ORGANIZATION</b>	
1	California Coastal Commission – August 9, 2019	CCC

**CALIFORNIA COASTAL COMMISSION** RECEIVED

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

AUG 12 2019

August 9, 2019

Dept. of Community Development



Ricky Ramos  
Senior Planner  
Community Development Department  
2000 Main Street  
Huntington Beach, CA 92648

Re: Mitigated Negative Declaration No. 19-004  
Park Avenue Rezone  
16926 Park Avenue, Huntington Beach CA 92649  
(Terminus of Park Avenue in Huntington Harbour)

Dear Mr. Ramos:

Thank you for the opportunity to provide comments on Mitigated Negative Declaration (MND) No. 19-004 (Park Avenue Rezone). As noted in the MND, the contemplated zone change will require an amendment to the City's certified Local Coastal Program (LCP). The LCPA will affect both the Land Use Plan and Implementation Plan portions of the certified LCP. Please note that the comments herein are preliminary. Different and/or additional concerns may be raised once a Local Coastal Program Amendment (LCPA) for the contemplated rezone is submitted for Commission review.

The subject site is located at the terminus of Park Avenue in the City of Huntington Beach, at 16926 Park Avenue. The MND describes the property as:

*"The subject site is a vacant 6,179 square foot property located at the terminus of Park Avenue in Huntington Harbour. It is flat, wedge shaped, and has 168 feet of shoreline. The shoreline is currently unprotected except for some rubble material and the lot slopes toward the water."*

**CCC-1**

The project contemplated by the MND includes General Plan Amendment No. 19-002, Zoning Map Amendment No. 19-002, and Local Coastal Program Amendment No. 19-001 which request to change the land use designation and zoning at the subject site from Open Space Water Recreation to Low Density Residential. More specifically: a change to the land use designation at the site from Open Space – Water Recreation (OS-W) to Residential Low Density (RL) and to the zoning at the site from Open Space – Water Recreation – Coastal Zone Overlay – Floodplain Overlay (OS-WR-CZ-FP2) to Residential Low Density – Coastal Zone Overlay – Floodplain Overlay (RL-CZ-FP2).

The MND contemplates a future LCP amendment. As you know, an LCPA will not be final unless and until the Coastal Commission has reviewed and approved an LCPA, the City Council has formally accepted by resolution any suggested modifications, the Commission has concurred with the Executive Director's determination that the City's action is legally adequate, and these actions have been reported to the Secretary of Resources. The standard of review for amendments to the Land Use Plan portion of an LCP is consistency with the Chapter 3 policies of the Coastal Act; and for amendments to the Implementation Plan portion of the LCP the standard is consistency with the certified Land Use Plan. At the time an LCPA on this matter is submitted for Coastal Commission

**CCC-2**

review, supporting information and documents must accompany the submittal sufficient to determine the LCPA's consistency with these standards of review.

Coastal Commission staff has provided comments through the years, dating at least to 1991, regarding the subject site. These comments have consistently stated that a change in land use designation and zoning at the site from the higher priority Open Space Water Recreation to the lower priority Low Density Residential could not be supported by Coastal Commission staff due to inconsistency with the land use policies of the Coastal Act and City's certified Land Use Plan (LUP) regarding priority of use, among other reasons (including but not necessarily limited to protection of coastal waters and habitat). In addition, more recently concerns regarding hazards have arisen due to the subject site's vulnerability to sea level rise. Nevertheless, the City and property owners have continued to pursue paths to residential development of the site. Through various communications through the years, Commission staff, while steadfastly maintaining that CCC staff could not support such an LCPA, has indicated that residential development could not be pursued without, at a minimum, a change in the land use designation and zoning. Please understand that CCC staff continues to maintain that a change in land use designation and zoning such as is contemplated in the subject MND is not consistent with the Coastal Act or the certified Land Use Plan. This factor should be kept in mind when reviewing the comments below. Should the LCPA and project be pursued, many of the comments below relate to information that will be necessary to include in the LCPA amendment request submittal.

#### Sea Level Rise

With regard to hazards, Coastal Act Section 30253 states, in pertinent part:

**CCC-2**

*New Development shall do all of the following:*

- a) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- b) *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

In addition, the certified Land Use Plan/Coastal Element contains the following policies:

#### **C 1.1.9**

*Minimize risks to life and property in areas of high geologic, flood (Figure C-33) and fire hazard through siting and design to avoid hazard.*

*New development shall be designed to assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of a protective device.*

#### **C 10**

*Minimize risks to life and property in areas of high hazards (e.g., geologic, flood and fire) within the Coastal Zone and ensure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any*

*way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

C 10.1

*Identify potential hazard areas in the city and manage/mitigate potential risks and impacts through land use regulation, public awareness and retrofitting where feasible.*

C 10.1.2

**CCC-2**

*Promote land use patterns, zoning ordinances and locational criteria that mitigate potential risks posed by development in hazard areas, or which significantly reduce risk from seismic hazards.*

The policies cited above require that risks be minimized in hazardous areas and that new development should not require the use of protective devices. The Huntington Harbour area in general and the project vicinity in particular are known to flood during high/king tide events and/or storm events, even now in 2019. These hazards will be exacerbated by expected future sea level rise. In addition, storm events will be more intense and more frequent in the future.

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In this geographic area, among the main concerns raised by development is potential exposure of the proposed development to flood and/or erosion hazards. Flooding from the harbor is expected to occur earlier than beach flooding and erosion from the ocean. In addition to impacts to the subject site itself, this inland flooding could impact roadways and other infrastructure, limiting access to the site and damaging necessary public services (such as roads and utilities). Sea level rise models suggest the site will likely become at risk in well less than 75 years, which is the typically expected life of residential development. The MND does not address potential impacts to the rezoned site due to expected future sea level rise.

The State of California has undertaken significant research to understand how much sea level rise to expect over this century and to anticipate the likely impacts of such sea level rise. In April 2017, a working group of the Ocean Protection Council's (OPC) Science Advisory Team released *Rising Seas in California: An Update on Sea-Level Rise Science*.<sup>1</sup> This report synthesizes recent evolving research on sea level rise science, notably including a discussion of probabilistic sea level rise projections as well as the potential for rapid ice loss leading to extreme sea level rise. This science synthesis was integrated into the OPC's *State of California Sea-Level Rise Guidance 2018 Update*.<sup>2</sup> This Guidance document provides high-level, statewide recommendations for state agencies and other stakeholders to follow when analyzing sea level rise. Notably, it provides a set of projections that OPC recommends using when assessing potential sea level rise vulnerabilities for various projects. Taken together, the Rising Seas science report and updated State Guidance account for the current best available science on sea level rise for the State of California. The updated projections in the 2017 Rising Seas report and the 2018 OPC Guidance suggest sea levels could rise between 2.1 and 6.7 feet by 2100 at the Los Angeles tide gauge<sup>3</sup>, depending on future greenhouse gas emissions.

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<sup>1</sup> Griggs, G, Árvai, J, Cayan, D, DeConto, R, Fox, J, Fricker, HA, Kopp, RE, Tebaldi, C, Whiteman, EA (California Ocean Protection Council Science Advisory Team Working Group). *Rising Seas in California: An Update on Sea-Level Rise Science*. California Ocean Science Trust, April 2017.

<sup>2</sup> OPC State of California Sea-Level Rise Guidance, 2018 Update: [http://www.opc.ca.gov/webmaster/ftp/pdf/agenda\\_items/20180314/Item3\\_Exhibit-A\\_OPC\\_SLR\\_Guidance-rd3.pdf](http://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20180314/Item3_Exhibit-A_OPC_SLR_Guidance-rd3.pdf)

<sup>3</sup> The OPC Guidance provides sea level rise projections for 12 California tide gauges, and recommends using the projections from the tide gauge closest to the project site. The projections for the LA tide gauge can be found on page 72 of the OPC Guidance.

The OPC Guidance recommends that development of only moderate adaptive capacity, including residential development, use the high end of this range, 6.7 feet, to inform decisions regarding development. The updated Rising Seas science report and OPC Guidance also include an extreme scenario (termed the “H++” scenario) of 9.9 feet of sea level rise by 2100 based on recent modelling efforts that look at possible sea level rise associated with rapid ice sheet loss. These projections and recommendations are incorporated into the 2018 update of the Coastal Commission Sea Level Rise Policy Guidance<sup>4</sup>.

Based on USGS CoSMoS modeling, the best available regional sea level rise modeling tool, the subject site will begin to become threatened with about 1.6 feet of sea level rise and no storm. With 2.5 feet of SLR, CoSMoS modeling indicates the site will be flooded. And with a 100 year storm, the site will flood with 1.6 feet of sea level rise (SLR). SLR medium-high risk aversion projections for the Los Angeles tide gauge indicate that 1.8 feet of SLR is expected to occur sometime between the years 2040 and 2050, and 2.5 feet of sea level rise is expected to occur by approximately year 2060. Thus, applying the best available science standard, the proposed site may be threatened as soon as 2040, only 20 years from now. In addition, the updated Rising Seas science report and OPC Guidance also recognize the possibility of an extreme scenario (termed the “H++” scenario) of 9.9 feet of sea level rise by 2100 associated with possible future rapid ice sheet loss. Under this H++ scenario, the site would be impacted even sooner.

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Section 30253 of the Coastal Act requires that risks be minimized and stability and structural integrity be assured. In addition, Section 30235 of the Coastal Act recognizes that “existing” development may be protected by a shoreline protective device subject to certain conditions. But “new” development (such as new residential construction on a vacant lot) cannot be considered to be “existing” development that may be afforded protection. The land use designation and zone change contemplated in the MND would change the allowable use at the site to residential. Section 30235 would not apply in this case because the site is undeveloped now and any future development would be new development. New development would need to be designed in such a way that it is demonstrated to be safe for the life of the development (75 years) without relying on shoreline protection. It does not appear likely that this could be demonstrated, which raises the question of the feasibility of converting the land use designation and zoning at the site to residential development.

For these reasons, Commission staff does not support the proposed land use designation and zone change contemplated for the site in the MND. However, should the project be pursued and an LCPA sought, information addressing this issue will be required.

#### Land Use: Priority of Use

Coastal Act Section 30213 states, in pertinent part:

**CCC-4**

*Lower cost visitor and recreational facilities shall be protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred.*

Coastal Act Section 30222 states:

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<sup>4</sup> <https://www.coastal.ca.gov/climate/slrguidance.html>

*The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

Coastal Act Section 30223 states:

*Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

In addition, the certified Land Use Plan/Coastal Element contains the following policies:

C1.1.2

*Coastal dependent developments shall have priority over other developments on or near the shoreline. Coastal-related developments should be accommodated within reasonable proximity of the coastal-dependent uses they support.*

C1.1.3

*The use of private lands suitable for visitor serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

C 3

*Provide a variety of recreational and visitor commercial serving uses for a range of cost and market preferences.*

**CCC-4**

C 3.1

*Preserve, protect and enhance, where feasible, existing public recreation sites in the Coastal Zone.*

C 3.1.3

*Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

C 3.2

*Ensure that new development and uses provide a variety of recreational facilities for a range of income groups, including low cost facilities and activities.*

C 3.2.1

*Encourage, where feasible, facilities, programs and services that increase and enhance public recreational opportunities in the Coastal Zone.*

C 3.2.2

*Lower cost visitor and recreational facilities shall be protected, encouraged, and where feasible, provided. On oceanfront, waterfront, or nearshore areas or lands designated for visitor uses and recreational facilities, an assessment of the availability of lower cost visitor uses shall be completed at the time of discretionary review and an in-lieu fee in an amount necessary to off-set the lack of the preferred lower cost facilities in or near Huntington Beach shall be imposed.*



C 3.2.3

*Privately-owned recreation facilities on public land shall be open to the public. Encourage privately-owned recreation facilities on private land to be open to the public.*

Section 30210 requires that public access and recreational opportunities be maximized. Sections 30213, 30222 and 30223 of the Coastal Act establish a higher priority for public recreational uses over lesser priority uses such as residential, office or general commercial; and that upland areas necessary to support recreational uses be reserved for such use, where feasible. The City's certified LUP policies also establish the same higher priority for and encouragement of public recreational uses over lesser priority uses such as residential.

The above policies prioritize recreation and visitor serving uses over other uses within the coastal zone. Huntington Harbour, upon which the subject site sits, provides only minimal public access for water recreational opportunities. The vast majority of water frontage in the harbor is developed with residential uses which preclude opportunities for the public to access the harbor waters. This makes the loss of any land designated and zoned Open Space Water Recreation all the more significant. Since the original certification of the City's LUP in 1982, and certification of the IP in 1985, the land use designation and zoning at the subject site has been Open Space-Water Recreation. Any change of allowable land use within recreationally designated areas must be carefully considered.

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The MND does not address the loss the higher priority recreational use at the site. If this project is pursued and an LCPA sought, this loss must be addressed in the LCPA submittal. Based upon information provided, there does not appear to be any basis for supporting such a loss. In addition, no-offsetting measures are discussed. If the LCPA is pursued, at a minimum, means for offsetting this loss must be included in the proposal. Such means may include, but are not necessarily limited to, creation of public recreational opportunities on the harborfront in Huntington Harbour, though means such as, but not necessarily limited to, converting existing residentially zoned water front site(s) to Open Space - Water Recreation or, possibly, to Visitor Serving designation(s) or zone(s) that would increase the availability of public recreational access to harbor waters. A complete and unmitigated loss of the higher priority recreational designation and zoning at the site cannot be found to be consistent with the Coastal Act and LCP policies cited above.

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In addition, there is no evidence in the MND that other entities that may have an interest in managing the subject site for public recreational use have been contacted. Such entities may include public agencies and/or non-profit entities. Until adequate contact with such entities is made, it cannot be concluded that maintaining the site for public recreational use is infeasible.

Furthermore, conversion of the site to residential use raises questions regarding the site's suitability for residential use given the site's susceptibility to hazards, especially due to sea level rise (discussed in greater detail above). However, should the project be pursued and an LCPA sought, information addressing this issue will be required.

**CCC-5**

Habitat Protection

Section 30230 of the Coastal Act states:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment*

*shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30233 of the Coastal Act states (in pertinent part):

*(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
- (3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
- (4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
- (5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
- (6) Restoration purposes.*
- (7) Nature study, aquaculture, or similar resource dependent activities.*

*(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for these purposes to appropriate beaches or into suitable longshore current systems.*

*(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.*

**CCC-5**

Section 30240 of the Coastal Act states:

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

*(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Certified Land Use Plan/Coastal Element policies C 6.1.1, C 6.1.2, C 6.1.3, C 6.1.4, C 6.1.20, C 7.1.2, and C 7.1.3, mimic the above cited Coastal Act policies. In addition, Policy C 7.1.4

establishes the requirement for buffers from wetlands and habitat areas. These Coastal Act and LUP policies require protection of the quality of coastal waters, limit fill of coastal waters to very specific, enumerated uses, and require that any allowable fill be the least environmentally damaging alternative and provide adequate mitigation to offset adverse impacts. Both the Coastal Act and the LUP include policies to protect terrestrial habitat as well.

The MND includes as an attachment a biological assessment for the subject site (dated 12/2/2016, and prepared by MBC Applied Environmental Sciences). The biological assessment (Assessment) states: “*Bay environs such as Huntington Harbour are environmentally sensitive habitats in southern California. Many species of marine life utilize this critical resource for nursery grounds, protection, and living space.*” The Assessment identifies the presence of coastal saltmarsh community at the site. The Assessment identified intertidal habitat including mudflat and saltmarsh vegetation including pickleweed (*Salicornia bigelovii*) at the subject site and vicinity. Other common saltmarsh plants include five hook bassia (*Bassia hyssopifolia*), spear saltbush (*Atriplex joaquiniana*), saltgrass, and to a lesser extent, alkali health (*Frankenia salina*) and sea lavender (*Limonium californicum*) have been identified at the site in the past. In addition, over the years Cordgrass (*Spartina foliosa*) and Salt-Marsh Bird’s Beak (*Cordylanthus maritimus*) was reported in front of a neighboring building.

Thus, at least portions of the site include and/or are adjacent to environmentally sensitive habitat coastal waters and wetlands. The policies cited above require that these be protected and enhanced, and also require buffers adequate to avoid disruption and to protect their continuance. The ability of the site to accommodate these habitat protection requirements in conjunction with residential development (based on the proposed zone change), must be considered prior to adopting such a zone change.

**CCC-5**

The biological assessment indicates that, at the water’s edge, the site will be terraced and a deteriorated former boat launch ramp will be removed. The biological assessment was prepared in conjunction with a previously contemplated project at the site. It is not clear whether these measures would be incorporated to a future project or not. In any case, residential and ancillary development are not uses for which fill of coastal waters is allowed under either the Coastal Act or the City’s certified LUP. The terracing described in the Assessment appears to constitute fill of coastal waters and/or wetlands. Any future development (if deemed allowable) of the site must be set back sufficiently from coastal waters, wetland, and/or habitat and include an adequate buffer area such that protection and continuance of sensitive resources is assured.

Should the project be pursued and an LCPA sought, a current (no more than one year old), detailed biological assessment and a wetland delineation of the site must be included in the LCPA submittal (prepared by a qualified professional(s)). The Assessment attached to the MND did not include a map/graphic depicting the locations of the resources on and adjacent to the site. This must be included with a future Biological Assessment and wetland delineation, which would be required with an LCPA submittal. The biological assessment and wetland delineation must conform to Coastal Commission standards (see attached document titled Suggestions for the Development of Mitigation and Monitoring Plans for the California Coastal Commission, Dixon & Engel, 5/1/12).

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#### Misc. Issues

The related LCPA submittal must also include:

**CCC-6**

The history of the subject site and the site ownership must be provided. How was the site created? Was it created at the time Huntington Harbour was created? How did the site come to be designated and zoned Open Space – Water Recreation in the first place? What is the history of the site being privately owned? Has the land use designation and zoning of Open Space - Water Recreation been effective from the point of creation of the site? What are the owner's reasonable investment back expectations? Consideration of preparation of an Economic Viability Determination should be made, and may be required with the LCPA submittal.

What is the history of the former (now deteriorated) boat launch ramp at the site? When was it constructed? By whom? Was it ever available to the public? When did it cease to function?

Is the subject site a single parcel/lot?

Demonstration of property owner's legal ability to access the site will be required with any future LCPA submittal.

Review/Comments from the California State Lands Commission (CSLC) must be sought and any response received included with a LCPA submittal. Evidence that input from CSLC was sought must be included too.

**CCC-6**

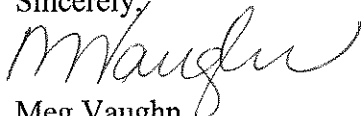
Where is the public/private boundary at the site and how was that determined? Where is mean high tide line (MHTL)? Does that play a role in the public/private boundary? This information will be required with any future LCPA submittal.

The MND indicates that Native American tribes were contacted regarding the contemplated rezone and subject MND pursuant to Assembly Bill 52. The LCPA submittal must include the contact list of all Native American tribes and/or individuals with whom contact was attempted, copies of any written notice/correspondences sent in conjunction with the attempted contact, the method of contact, any written responses received, and, if contact was attempted/made via phone or otherwise unwritten, please provide a written summary of actions taken and responses received.

MND Figure 1 (page 3), omits a small triangular section from the contemplated zone change at the northwest portion of the property. The certified LUP identifies the entire area, including this triangular area, as OS-WR. Is this portion intended to remain OS-WR? Is it separately owned? Please explain how and why it is separated from this rezone request. Please provide background information explaining this triangular area.

Again, thank you for the opportunity to comment. Please remember that these comments are preliminary. Different and/or additional concerns may be raised in the event a Local Coastal Program Amendment (LCPA) is submitted for Commission review. Please do not hesitate to contact me with any questions.

Sincerely,



Meg Vaughn  
Staff Analyst

## Economic Viability Determination Information

In some cases, additional application information is needed regarding an applicant's investment-backed expectation (including, but not limited to, cases where development is proposed in environmentally sensitive habitat areas (such as coastal dunes and wetlands), other highly sensitive areas (such as critical viewsheds), high hazard areas, etc.

### **BACKGROUND**

If an applicant for a coastal development permit can demonstrate that he or she has a sufficient real property interest in the property to allow the proposed project, and that denial of the proposed project based on application of Coastal Act policies would deprive his or her property of all economically viable use, some development may be allowed even where a Coastal Act policy may otherwise prohibit it, unless the project would constitute a nuisance under State Law. A specific development proposal may still be denied, however, if a more modest alternative proposal could be approvable, and thus assure the property owner of some economically viable use. Any development approved pursuant to this provision must conform to all other applicable Coastal Act requirements.

### **Information Needed**

Since the Coastal Commission must analyze whether its action in denying a permit application would constitute a taking, in order to comply with Section 30010 of the Coastal Act and the California and United States Constitutions, the application filing requirements shall include information about the nature of the applicants' property interest. When an application involves property in which development could potentially be completely prohibited (for example, because the property contains environmentally sensitive habitat areas, is located in the critical viewshed, is subject to coastal hazards, etc.), the applicant shall submit the following information as part of their coastal development permit application:

**CCC-7**

1. Date the applicant purchased or otherwise acquired the property, and from whom.
2. The purchase price paid by the applicant for the property.
3. The fair market value of the property at the time the applicant acquired it. Describe the basis upon which the fair market value is derived, including any appraisals done at the time.
4. Changes to general plan, zoning or similar land use designations applicable to the subject property since the time of purchase of the property. If so, identify the particular designation(s) and applicable change(s).
5. At the time the applicant purchased the property, or at any subsequent time, has the property been subject to any development restriction(s) (for

example, restrictive covenants, open space easements, etc.), other than the land use designations referred to in question (4) above?

6. Any changes in the size or use of the property since the time the applicant purchased it. If so identify the nature of the change, the circumstance and the relevant date(s).
7. If the applicant has sold or leased a portion of, or interest in, the property since the time of purchase, indicate the relevant date(s), sales price(s), rent assessed, and nature of the portion of interest sold or leased.
8. Is the applicant aware of any title report, litigation guarantee or similar document prepared in connection with all or a portion of the property? If so, provide a copy of each such document, together with a statement of when the document was prepared and for what purpose (e.g., refinancing, sale, purchase, etc.).
9. Has the applicant solicited or received any offers to buy all or a portion of the property since the time of purchase? If so, provide the approximate date of the offer and the offered price.
10. Identify, on an annualized basis for the last five calendar years, the applicant's costs associated with ownership of the property. These costs should include, but not necessarily be limited to, the following:
  - a. property taxes
  - b. property assessments
  - c. debt services, including mortgage and interest costs; and
  - d. operation and management costs;
11. Apart from any rent received from leasing all or a portion of the property (see question #7, above), does the applicant's current or past use of the property generate any income? If the answer is yes, list on an annualized basis for the past five calendar years the amount of generated income and a description of the use(s) that generates or has generated such income.

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Suggestions for Preparing a Wetland Delineation Report  
for the California Coastal Commission  
(Vanessa Metz & John Dixon, 10-16-06, revised Sep 2011)

Ideally, wetland delineations should be conducted before the project is designed. The report should be sufficiently detailed to enable an independent investigator to replicate the results. Reports should include the following components:

**NARRATIVE**

- Introduction
  - Purpose of delineation.
  - Personnel conducting delineation - training, and experience. Someone on the delineation team must have botanical taxonomic expertise ("unknown grass" is not useful).
  - Dates field work conducted
- Site Description:
  - Location.
  - Size - acreage and dimensions.
  - General site description-- including topography, geology, soils, hydrology, and vegetation communities.
  - Hydrology of the site (how water gets on and off the site), including significant features such as waterbodies, culverts, swales, ditches, etc. Also describe significant hydrological features on property adjacent to the project site.
- Sampling Methods:
  - Wetland delineation methodology used (routine, comprehensive, etc.). Regional supplement used.
  - Identify any "atypical situations," where one or more parameters (vegetation, soil or hydrology) have been sufficiently altered by recent human activity or natural events to remove wetland indicators of a parameter (e.g., an area scraped of vegetation). Do not speculate as to whether the offending human activity is legal or treat the situation as "new normal." For purposes of field delineation, treat the area as an atypical situation. Legal considerations for jurisdictional purposes can be presented in the delineation report.
  - When feasible for difficult sites, after the first several rains of the season, visit the site shortly after significant rainfall and map all inundated areas. Return and remap inundated areas after 7 and 14 days. On each occasion, assess shallow soil saturation in potential wetlands.
  - Rationale for the sampling method used.
  - Visually estimate the cover of all species within the sample plots (use plot dimensions recommended in the 1987 Corps Manual or give rationale for differences). Determine dominance using the 50/20 rule and determine prevalence using the dominance ratio.
  - Identify all plants to species. If an individual is only identified to genus, assign it the wettest classification of representatives of the genus that appear in the regional list of plants that occur in wetlands.
  - Within each significant wetland area establish at least one set of paired sample points across the wetland boundary.

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- For each wetland area, describe the surface feature used to map the wetland boundary.
  - Provide the rationale for changes to standard methods.
  - Number of sampling sites (and transects, if applicable) used.
  - Supporting materials used-- plant lists, soil surveys, etc.
  - Wetland regulatory definition used should be the Coastal Commission "one-parameter" wetland definition found in Section 13577 of the Commission's Regulations.
  - Even if the project is only partly in the Coastal Zone, delineate wetlands throughout the entire project area to Coastal Commission standards.
  - Where the project can impact off-site hydrology in the Coastal Zone, delineate wetlands adjacent to the project site.
- Results and Conclusions
    - Summarize results of vegetation, soil, and hydrology sampling.
    - Describe the characteristics, location, and size (acreage and dimensions) of each wetland area.
    - Give size of each wetland separately, as well as the total.

## MAPS

All map layers should be available in shape files that are compatible with ArcView and provided to the CCC mapping unit upon request.

- Indicate on all maps:
  - Legend.
  - North arrow & scale, including a 100-foot mark.
  - Date & author.
  - Hydrologic features-- waterbodies, culverts, swales, ditches, etc.
  - Landmarks-- structures, roads, etc.
  - Applicable boundaries-- property, project, plant communities, etc.
- Site Map(s)
  - Topographic map (or maps) of the project site, preferably at a 1:24,000 scale, showing 5- to 10-foot contours.
  - Indicate property and project area boundaries.
  - Indicate plant community boundaries, if appropriate at this scale.
- Wetland Map
  - An appropriately large-scale map (or maps) of the project site showing delineated wetland areas and any areas with a preponderance of wetland indicator species (whether or not delineated), with enough detail to identify hydrological and landscape features. Depending on the size of the wetland features, maps should be at a scale of 1 inch equals 200 feet or larger.
  - Although large maps in pockets that are bound into the report are acceptable and often very useful, smaller maps (up to 11" x 17") should be included in the appropriate places within the report. This may require multiple maps to cover the same area in the larger maps and still remain legible.

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- An ortho-rectified aerial photo is an appropriate base map. An overlay showing elevation contours is useful.
- Indicate sampling locations, photo locations (with direction arrow), transect lines, and wetland boundaries.
- Sampling sites and photo locations must be individually identified (i.e., numbered or named) so that they can be cross-referenced to the wetland data sheets and photo descriptions.
- Vegetation communities. These should be mapped, and any area with a preponderance of wetland indicator species should be delineated with a polygon.
- Wetland or vegetation boundaries that are straight lines should be explained. Such features suggest arbitrary anthropogenic limits.

### **SITE PHOTOS**

- Ground-level photos documenting surface features (e.g. plant community changes) used to map the wetland boundaries.
- Ground-level photos of each wetland.
- Ground-level photos of vegetation types.
- Aerial photos of project site, if available, with important features identified (wetlands, waterbodies, project boundaries, etc). Oblique aerial photos are especially helpful in providing orientation.
- Photo log including date, location, and photographer.

### **FIELD DATA FORMS**

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- Completed wetland delineation data sheets showing the data collected for hydrology, soils, and vegetation for each sampling site.
- Data sheets must be legible and completely filled out.
- Photocopies of the original, hand-written data sheets that were filled out in the field should be appended to the report. Data sheets should be checked for accuracy and completeness in the field. There should be no changes or additions to data sheets after the delineator has left the field. After leaving the field, any corrections or explanations should be in the delineation report - not on the data sheets.
- If abbreviations are used, supply a key to the abbreviations.

### **CITATIONS AND APPENDICES**

As applicable. Cited documents should be available and copies sent to CCC staff upon request.

### **IMPACT ANALYSIS**

An impact analysis is a necessary part of all project proposals. In general, such an analysis should be separate from the wetland delineation. It should include the following features:

- Impact Calculations
  - Permanent impacts and temporary impacts should be identified separately.

- Long-term "temporary impacts" that result in the removal or death of vegetation should be distinguished from short-term "temporary impacts" that are sufficiently brief or benign that the vegetation can reasonably be expected to recover in less than one year.
- Impacts should be calculated for each wetland polygon by wetland type.
- The area of wetlands and of wetland impacts in the various applicable categories should be presented in a table.

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- Project Overlay

- The footprint of the proposed project and alternatives should be overlaid on separate maps of the delineated wetlands. The footprint of both permanent and temporary impacts should be shown and distinguished. Short-term and long-term "temporary" impacts should be distinguished.
- Areas of impact in the various categories should be identified (e.g. with hachuring).
- Maps should be of sufficiently large scale that they are easily read.

## Suggestions for the Development of Mitigation and Monitoring Plans for the California Coastal Commission

(John Dixon and Jonna Engel 05-01-12)

If a proposed project includes mitigation in the form of habitat protection, enhancement, restoration, or management, it is very important that a complete and detailed Mitigation and Monitoring Plan prepared by a qualified restoration ecologist, be part of the application for a Coastal Development Permit or Federal Consistency Determination. For convenience, such plans are generically referred to as Resource Management Plans (RMP) herein. Such applications often include a draft plan that is largely conceptual and lacking in detail. Incomplete plans cannot be evaluated and result in requests for additional information followed by technical responses. There commonly are multiple cycles of request and response before the plan is finalized. At worst, plans are still incomplete at the time of the Commission action, and the issuance of the approved Coastal Development Permit is conditional on the submission of a final plan. This may result in project delays. In order to avoid this situation, the Commission's Technical Services and Legal Divisions both strongly recommend that applications for Coastal Development Permits for projects that require habitat restoration never be deemed complete by permit analysts until the applications are accompanied by a RMP that is technically sound and substantially complete. Nearly all management plans, especially those that include a significant restoration component will require preliminary field sampling and the results of this sampling should be included in the final plan.

The Resource Management Plan should be a stand-alone document. Marginal notes on large format engineering or landscaping plans do not constitute such a plan, nor do tables and bulleted lists. References to information in other planning documents or to literature on field or statistical methods cannot be substituted for the information itself. Reference to "standard methods" or "best management practices" cannot be substituted for a description of the actual methods and practices to be employed. The RMP should enable a technical specialist, who has not been involved in the project, to carry out the plan. It should also be written in such a way that an educated layman could understand and evaluate the plan.

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All plans must include a cover page, date of preparation, list of preparers and/or acknowledgements; a purpose statement; goals and objectives; a description of the property setting; a resource inventory summary with maps; open space resource protection provisions; and a plan for implementation, measurable short and long term success criteria; monitoring provisions; adaptation over time; etc. The plan must also include substantive information and implementation measures necessary to restore, protect, enhance, and manage the biological resources/open space area as required by the CDP. An approvable plan needs to clearly account for all such provisions.

Implementation of RMPs must be overseen by a qualified individual (project ecologist) who will be personally responsible for all phases of the plan. Different phases of the plan should not be assigned to different contractors without onsite supervision by the

project manager. The project ecologist should be a qualified restoration biologist, not a project manager with no technical background. If a consulting firm is responsible for the restoration or habitat management, a qualified individual must be named as project ecologist and any changes must be approved by the Executive Director.

An approvable Resource Management Plan will include the following elements:

- **Introduction.** Including purpose of RMP, overview of the proposed project associated with RMP, and figures and exhibits including location map, proposed project site plan, map of existing biological resources, and map comparing existing vs. future site conditions.
- **Goals of the Biological Resource Protection, Enhancement, Restoration, or Management.** A clear statement of the goals of the RMP, including the desired habitat types, major vegetation components, hydrological regime for wetlands, and wildlife support functions. There should be a clear narrative description of the characteristics of the habitat type that the protection, enhancement, or restoration is intended to provide.
- **Characterization of the Desired Habitat.** Although the characteristics of the model habitat may be based on descriptions in the literature, the best approach is to identify an actual habitat that can act both as a model for the required enhancement, restoration, or management and as a reference site for developing success criteria. Reference habitats should be sampled using the methods that will be applied to the management site. The resultant data should be included in the RMP.
- **Description of Existing Habitats.** The RMP should include quantitative descriptions of existing biological resource conditions. If the project site includes wetlands, there should be a wetland delineation of the proposed site. This information is necessary in order to determine appropriate management and to assess whether the site is suitable for any proposed enhancement or restoration.
- **Grading Plan.** If there is a restoration component to the plan that requires topographic alterations, a formal grading plan should be included.
- **Erosion Control.** Methods to control erosion and maintain water quality should be included if soil or other substrate will be significantly disturbed for any reason.
- **Weed Eradication Plan.** One of the greatest threats to the success of enhancement and restoration projects and for management of natural habitats is invasion by exotic species. If the management site is currently seriously degraded by weeds, weed eradication should be part of the plan and precede any further enhancement or restoration. If the area is dominated by annual grasses and forbs, a “grow and kill” approach using spot application of herbicides might be necessary for several years in order to reduce the exotic seed bank in preparation for any planned restoration activities. After enhancement or restoration takes place, weeding should be very frequent (usually monthly and then quarterly) and intense (zero tolerance) until the native vegetation is

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sufficiently well-established to resist continued colonization by exotics. Weeding should generally be done by hand and must be supervised by the project ecologist to insure that native plants are not disturbed.

- **Planting Plan.** The RMP should identify the natural habitat types that are the model for management and any planned enhancement or restoration, and describe the desired relative abundance of particular species in each habitat type that is to be enhanced or restored. Based on these goals, the RMP should identify the species that are to be planted (plant “palette”), and provide a rationale for and describe the size and number of container plants and the rate and method of seed application. Plant propagules should come from local native stock. If plants, cuttings, or seed are obtained from a nursery, the nursery must certify that they are of local origin and are not cultivars and the planting plan should provide specifications for preparation of nursery stock (e.g., container size & shape to develop proper root form, hardening techniques, watering regime, etc.) Technical details of planting methods (e.g., spacing, micorrhizal inoculation, etc.) should also be included.

- **Irrigation Plan.** If supplemental watering is planned, the method and timing of watering should be described. All irrigation infrastructure must be removed by the end of the monitoring period.

- **Monitoring.** There are two basic purposes for a monitoring program. The first is to provide data that will guide the enhancement or restoration and enable an adaptive management plan that will increase the likelihood that those activities will be successful. The second is to provide the data that will allow regulatory agencies to determine if there has been compliance with the terms and conditions of the permit. The permit applicant is responsible for the success of the restoration components of the plan, so the requirements for interim monitoring are generally less stringent than the requirements for final monitoring to assess “success.”

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- **Interim Monitoring Plan.** An interim monitoring plan should include maintenance and remediation activities, interim performance goals, assessment methods, and schedule. In general, monitoring should be monthly until plants are established and quarterly thereafter. Weeding should be frequent, with a “zero tolerance” policy throughout the monitoring period. Photographs should be taken from fixed points on fixed azimuths during each monitoring period. Quantitative monitoring should take place once a year.

- **Final Monitoring Plan.** Final monitoring is intended to determine whether management and any required enhancement or restoration has been successful. In order to help insure that the habitats are self-sustaining, final monitoring for success should take place after at least 3 years with no remediation or maintenance activities other than weeding. The RMP should include a statement to that effect. The final monitoring plan will include specific ecological performance or “success” criteria that relate logically to the goals of the required management, enhancement or restoration.. Generally, these criteria will include standards for species diversity of both perennial and annual plants, vegetative

cover, and approximate dispersion patterns of major species. Success criteria should insure that the major structure-producing species that characterize the habitats are present and that there is an appropriate diversity of species in the vegetation layers of each habitat type. In some cases, habitat elements necessary for particular wildlife species may be specified. Wetlands should have hydrological criteria.

- **Basis for Selection of Performance Criteria.** The basis for the selection of each performance criterion should be explained. Commonly, performance criteria take the form of, for example, “85% vegetative cover at the end of 5 years” without explanation. For some habitat types, this is too high, and for others it is too low. There must be some empirical basis for the selection of each performance criterion.

- **Types of Performance Criteria.** Where there is sufficient information to provide a strong scientific rationale, the performance criteria may be absolute or fixed (e.g., a specified percentage ground cover or relative diversity of species, or a specified average height for a species). Alternatively, relative performance criteria may be specified. Relative criteria are those that require a comparison of the managed, enhanced or restored site with appropriate reference sites. In the case of relative performance criteria, the rationale for the selection of reference sites should be described. These sites must be selected and identified in the RMP. In addition, a preliminary field sample should be taken and the results included in the plan. Large projects with a significant enhancement or restoration component should always incorporate the use of reference sites.

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- **Procedure for Judging Success.** Regardless of whether performance criteria are absolute or relative, the comparison procedure, and the basis for judging differences to be significant should be specified. In other words, how does one know if the success criteria are achieved? Small projects could potentially be evaluated using a census based on direct examination or on analysis of an aerial photograph. The evaluation of larger projects will require inferences based on sampling. If the comparison requires a statistical test (e.g., a one-sample or two-sample t-test), the test should be described, including the desired magnitude of difference to be detected, the desired statistical power of the test, and the alpha level at which the test will be conducted.

- **Formal Sampling Design.** The design of the field sampling program should relate logically to the performance criteria and chosen methods of comparison. The sampling design and the sampling methods should be described in sufficient detail to enable an independent scientist to duplicate it. If the sampling methods have not been proven in the field, they must be tested and the results demonstrating their feasibility included in the plan. Developing field methods should precede the preparation of a RMP. The development of field methods should not be part of the RMP. Monitoring plans based on untested field methods are not acceptable.

- **Sample Size.** The estimated sample size for final performance monitoring should be based on a statistical power analysis conducted using data from the

preliminary sampling. The results of the preliminary sample and the power analysis should be included in the plan. Generally, there should be sufficient replication to provide 90% power at an alpha of 0.10 to detect a difference that is biologically significant.

- **Final Report.** A final monitoring report should be submitted for the review and approval of the Executive Director of the Coastal Commission at the end of the monitoring period. The final report should be prepared by a qualified ecologist. The report must evaluate whether the required management, enhancement or restoration has achieved the goals and success criteria set forth in the approved RMP.

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- **Provision for Possible Further Action.** If the final monitoring report indicates that the project has been unsuccessful, in part or in whole, based on the approved success criteria, the applicant shall submit within 90 days a revised or supplemental plan to compensate for those portions of the original plan which did not meet the approved success criteria. The revised plan shall be processed as an amendment to the coastal development permit unless the Executive Director determines that no permit amendment is required.

**APPENDIX B**  
**RESPONSE TO COMMENTS ON DRAFT MND NO. 19-004**

**ORGANIZATION**

**CALIFORNIA COASTAL COMMISSION (CCC)**

- CCC-1        The comment describes the request and subject site. The comment does not address the completeness or adequacy of the Draft MND and does not raise significant environmental issues. Comment acknowledged and will be forwarded to the decision makers for their review and consideration.
- CCC-2        The comment describes that CCC staff has indicated over the years that the requested change in land use and zoning designations at the site from the higher priority Open Space Water Recreation to the lower priority Low Density Residential could not be supported by CCC staff due to inconsistency with the land use policies of the Coastal Act and City's certified land use plan. The comment also identifies information that will be necessary to include in the Local Coastal Program Amendment (LCPA) application that will be submitted to the CCC. The comment does not address the completeness or adequacy of the Draft MND and does not raise significant environmental issues. Comment acknowledged and will be forwarded to the decision makers for their review and consideration.
- CCC-3        The comment states that the site will likely become at risk from sea level rise (SLR) and explains the significant research that has been done on SLR including projections and recommendations which are incorporated into the 2018 update of the CCC SLR Policy Guidance. It further states that new development on the site cannot be protected by a shoreline protective device. The comment does not address the completeness or adequacy of the Draft MND and does not raise significant environmental issues. Comment acknowledged and will be forwarded to the decision makers for their review and consideration.
- CCC-4        The comment identifies relevant Coastal Act and Coastal Element policies as well as additional information that will be required with a future LCPA application submittal to the CCC for the rezone. The comment does not address the completeness or adequacy of the Draft MND and does not raise significant environmental issues. Comment acknowledged and will be forwarded to the decision makers for their review and consideration.
- CCC-5        The comment lists Coastal Act and Coastal Element policies pertaining to habitat protection as well as other requirements applicable to any future development. The comment does not address the completeness or adequacy of the Draft MND and does not raise significant environmental issues. Comment



acknowledged and will be forwarded to the decision makers for their review and consideration.

CCC-6        The comment identifies other miscellaneous information that is requested with a future LCPA application to the CCC for the rezone. The comment does not address the completeness or adequacy of the Draft MND and does not raise significant environmental issues. Comment acknowledged and will be forwarded to the decision makers for their review and consideration.

CCC-7        Pages 10 through 20 of the comment letter provides some information regarding economic viability determination, suggestions for preparing a wetland delineation report, and suggestions for the development of mitigation and monitoring plans for the CCC. The comment does not address the completeness or adequacy of the Draft MND and does not raise significant environmental issues. Comment acknowledged and will be forwarded to the decision makers for their review and consideration.