



STAFF REPORT

SAN CLEMENTE PLANNING COMMISSION

Date: May 22, 2024

PLANNER: Christopher Wright, Lead Project Planner

SUBJECT: **Interpretation 24-045, Caretaker's Unit on Shorecliffs Golf Course**, a request to interpret a golf course caretaker's unit allowed within the Sector G Coastal Zone area of the Forster Ranch Specific Plan.

REQUIRED FINDINGS

Section 602 (F) of the Forster Ranch Specific Plan incorporates Zoning Ordinance Section 17.04.040 allowing applicants to request an interpretation when development standards or uses are not specifically addressed in the Specific Plan. The following findings must be made to approve the proposed interpretation. The draft Resolution (Attachment 1) and analysis section of this report provide an assessment of the required findings.

Zoning Ordinance Section 17.04.040 Interpretations, to request an interpretation that a golf course caretaker's unit is an allowed accessory use with a Conditional Use Permit.

- a. The proposed use is similar in nature to the listed use in terms of its function; and
- b. The proposed use is as restrictive as the use to which it is being compared in terms of impacts to traffic, parking, dust, noise, or other negative impacts.

Additionally, Section 602 (F) of the Forster Ranch Specific Plan requires the reviewing authority to find that any interpretation is consistent with the LUP land use policies.

BACKGROUND

The applicant submitted a zoning application to develop a golf course caretaker's unit, event pavilion, restrooms, and putting green at 2632 Via Cascadita. The site is hole 14 of the Forster Ranch golf course within the Sector G Coastal Zone area of the Forster Ranch Specific Plan and is designated Private Open Space (OS2) in the Centennial General Plan. For a zoning map, please refer to Attachment 3. The development standards and permitted uses for the zone are provided as Attachment 4.

The application was deemed incomplete, *inter alia*, because the zoning standards do not specifically identify a caretaker's unit as a permitted primary or accessory use. Nor do they allow a habitable use, other than the conditionally permitted Senior residential (housing) development, which is in a different zoning classification area (Residential High) of the Sector G Coastal Zone area.

When a proposed use is not identified for a zone, an applicant may request a zoning interpretation according to Section 602 (F) of the Forster Ranch Specific Plan and Zoning

Ordinance Section 17.04.040. A zoning interpretation requires a City Planner or Planning Commission decision based on whether the interpretation is found to be minor or major. The City Planner recommended forwarding this item to the Planning Commission for interpretation, finding a higher level of review is appropriate because the interpretation has potential for public concern and is therefore, a major interpretation. As such, this request for a zoning interpretation is the only item before the Planning Commission for its consideration.

For approval, the Planning Commission must make required findings that the proposed caretaker's use is similar to an identified permitted use for the zone in terms of the use's functions and potential impacts and consistent with the LUP land use policies.

Applicant Arguments:

The applicant submitted a Request for Zoning Interpretation; however, it does not argue that a caretaker's unit is similar to a permitted use identified in the zone nor does it otherwise demonstrate how the interpretation is consistent with the LUP land use policies. Instead, the applicant's request makes legal arguments as to why a caretaker's unit should be allowed with a Conditional Use Permit. (See Attachment 2 for letter.)

The applicant's assertions are completely unrelated to the findings the Planning Commission must evaluate in this interpretation request. Nevertheless, to inform the Planning Commission and the record, the applicant's arguments are addressed briefly below. None of the applicant's arguments are relevant to the determination before the Planning Commission.

First, the applicant contends that the Forster Ranch Specific Plan is inconsistent with the City's General Plan because the General Plan allows a caretaker's unit in the Open Space (OS2) Zone. However, the Forster Ranch Specific Plan identifies the primary use as a "golf course and continued maintenance of the low flow conservation easement stream along the golf course." The Forster Ranch Specific Plan also allows for a senior residential housing development with the approval of a Conditional Use Permit along with various accessory uses and structures, including non-habitable accessory structures within the Residential High (RH) portion of the Sector G Coastal Zone area. A specific plan need not be identical to a general plan and is compatible if it is in agreement or harmony with the terms of the applicable general plan. (*San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656, 678.). Even though a caretaker's unit is allowed in the General Plan, it is not inconsistent with the General Plan to not allow a habitable caretaker's unit in the Forster Ranch Specific Plan.

Second, the applicant's other contentions are addressed together since they are one and the same. The applicant asserts that staff's interpretation impedes compliance with Condition of Approval ("COA") 4.12 of the "Larger Project" and that the "Larger Project" clearly envisioned on-site caretakers for Senior Housing Facility and the Golf Course Clubhouse.

These arguments pertain to applicant's project located at an adjacent parcel: 501 Avenida Vaquero (Assessor Parcel Number 691-231-06). Specifically, the applicant was approved to develop senior apartments and a golf clubhouse at 501 Avenida Vaquero within the RH zoned area. COA 4.12 pertains to that parcel and project only and states, in part, "[p]rior to

the issuance of the Building Permits, the applicant shall submit, and the City Planner shall approve, two (2) property management plans for the project: the first for the Shorecliffs Golf Course Club House and associated Parking Lot, the second for the Shorecliffs Senior Apartment Complex Property which shall including [sic] all portions and features of the property." Two management plans, versus one, were required to separately address operational and security issues that may be specific to the clubhouse and senior housing development.

At issue before the Planning Commission is to make an interpretation as to whether a caretaker's unit is allowed within the Private Open Space area of Sector G Coastal Zone area of the Forster Ranch Specific Plan so that it can develop the caretaker's unit at 2632 Via Cascadita (and not 501 Avenida Vaquero). As such, COA 4.12 is unrelated to the proposed development at 2632 Via Cascadita, at which applicant has not obtained project approval from the City. Staff has, therefore, not impeded compliance with COA 4.12. Similarly, staff has not impeded the "Larger Project" as referenced by the applicant. Again, the project previously approved by the Planning Commission was for development at 501 Avenida Vaquero which is unrelated to the parcel and proposed project at issue before the Planning Commission tonight.

DISCUSSION AND BASIS FOR STAFF'S RECOMMENDATION

The zone identifies the primary use as a *"golf course and continued maintenance of the low flow conservation easement stream along the golf course."* Several accessory uses are identified that are associated with the golf course, including *"accessory structures, non-habitable, in conjunction with a permitted use."*

It is staff's position that the zoning standards are clear and unambiguous. A habitable residential caretaker's unit is not allowed. The specific plan allows non-habitable accessory structures only in conjunction with the golf course. Therefore, it is staff's position that the required findings cannot be met to approve an interpretation. A summarized analysis is below.

Finding on Zoning Ordinance Section 17.04.040(a): The Proposed Use is Not Similar in Nature to the Listed Use in Terms of its Function

The proposed caretaker's unit is not similar in nature to a listed use in terms of function. The primary use for the zone is limited to a golf course and drainage stream. The General Plan intends for private open space to be for *"[p]rivately owned parklands, recreational facilities, passive open space areas and golf courses"* (General Plan Land Use Element Table LU-1). The caretaker's unit is a residential unit and dissimilar to active recreational and supportive open space uses.

Further, the zone allows accessory structures that are non-habitable in conjunction with the golf course with examples that include a clubhouse, garage for golf cart storage, kiosk for valet parking, etc. Each of these structures are non-habitable. The function of the proposed use is different. The caretaker's unit is to provide a habitable space with independent eating, sleeping, and sanitation facilities for golf course staff to live within to monitor, protect, and maintain the golf course premises on an ongoing basis. For these reasons, staff's position is that a caretaker's unit is dissimilar to the permitted uses in the zone.

Finding on Zoning Ordinance Section 17.04.040(b): The Proposed Use is Not as Restrictive as the Use to which it is Being Compared in Terms of Impacts to Traffic, Parking, Dust, Noise, or Other Negative Impacts

The proposed caretaker's unit has potential impacts to traffic, parking, dust, noise, or other impacts that are less restrictive than listed permitted uses in the zone. The golf course is the primary permitted use for the zone. Non-habitable accessory structures are allowed in conjunction with the golf course. These accessory structures support customer use of the golf course, unlike a residential unit that generates stand-alone traffic, parking, noise, dust, and other impacts. The proposed caretaker's unit is to provide a residential unit for independent eating, sleeping, and sanitation facilities on-site.

Finding on Consistency with Land Use Policies: The Proposed Use is Inconsistent with the Land Use Policies (LUP)

Within Private Open Space (OS2) areas, the LUP allows "*privately owned parklands, beach parcels, recreational facilities, passive open space areas; habitat protection areas golf courses, and passive space areas and golf courses*" (Coastal Land Use Plan Table 2-1). The proposed caretaker's unit would establish a dwelling within the OS2 area rather than provide facilities and open space to support active recreational and supportive open space uses, such as a golf course. The proposed use is intended for a residential or mixed-use area or housing overlay.

ENVIRONMENTAL REVIEW/COMPLIANCE

Staff reviewed the environmental impacts of the project under the California Environmental Quality Act (Public Resources Code §§ 21000, et seq. "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regs. §§ 15000, et seq., the "CEQA Guidelines"). CEQA Guidelines §§ 15060(c)(2), 15061(b)(3)(4), and 15378 exempt activities that will not result in a direct or reasonably foreseeable indirect physical change in the environment, activities where there is possibility that it may have a significant effect on the environment, and activities that do not constitute a "project" as defined, respectively. If the staff recommendation is followed, this activity is exempt from further review. If the Planning Commission wishes to interpret the zoning differently, further CEQA analysis will be necessary and the item should be continued to enable that analysis to occur and be properly noticed.

CALIFORNIA COASTAL COMMISSION REVIEW

The interpretation does not require California Coastal Commission action under the California Coastal Act. The request does not involve development.

ALTERNATIVES

The Planning Commission may take any of the following alternative actions:

1. Adopt the proposed resolution to deny the requested interpretation. This would mean that the proposed use (a habitable caretaker's unit) is not permitted in the Sector G

Coastal Zone golf course area of the Forster Ranch Specific Plan, based on an inability to meet the required findings for an interpretation. After such a decision, the applicant could either: (1) appeal the Planning Commission's decision; (2) or submit a separate application to pursue a Specific Plan Amendment to add a habitable use as a permitted use for the zoning district. Before pursuing the second option, compliance with General Plan policy (Policy BPR-4.09) is required. This General Plan policy was adopted as an outcome of the City's 2008 ballot initiative "Measure V." The policy requires majority voter approval of a ballot measure to allow any proposal to change open space zoning and permitted uses that existed as of September 2007, with limited exceptions. This majority vote would need to occur before the City could process an amendment to the open space zoning through a public hearing process, along with other zoning permits to allow development and the proposed use;

OR

2. The Planning Commission may decide to support an interpretation that a caretaker's unit is similar to another permitted use in the zone to allow the submittal of zoning applications to establish the use. If the Planning Commission takes this action, a continuance of this agenda item is necessary to conduct further CEQA analysis and draft a revised resolution. If the Planning Commission supports the applicant's proposed zoning interpretation, the Planning Commission should state reasons for supporting the interpretation based on the required findings.

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Adopt Resolution PC 24-006, denying the interpretation that a caretaker's unit is a permitted use with a Conditional Use Permit in the Sector G Coastal Zone area of the Forster Ranch Specific Plan.

Attachments

1. Resolution PC 24-006
2. Applicant correspondence
3. Zoning map for Sector G area of the Forster Ranch Specific Plan
4. Zoning standards for the Sector G Coastal Zone specific plan area

ATTACHMENT 1

RESOLUTION NO. PC 24-006

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DENYING INTERPRETATION 24-045, FINDING A CARETAKER'S UNIT IS NOT A PERMITTED USE IN THE SECTOR G COASTAL ZONE AREA OF THE FORSTER RANCH SPECIFIC PLAN

WHEREAS, the applicant, OC Re-hab 1 LLC, 13101 Barret Hill Circle, North Tustin, CA 92705, submitted a development application to develop a golf course caretaker's unit, event pavilion, restrooms, and putting green at 2632 Via Cascadita. The site is hole 14 of the Forster Ranch golf course within the Sector G Coastal Zone area of the Forster Ranch Specific Plan and is designated Private Open Space (OS2) in the Centennial General Plan; and

WHEREAS, the application was denied because the zoning standards do not specifically identify a caretaker's unit as a permitted primary or accessory use and they do they allow a habitable use, other than the conditionally permitted Senior residential (housing) development; and

WHEREAS, the Forster Ranch Specific Plan zoning standards do not specifically identify a caretaker's unit as a permitted primary or accessory use. When a proposed use is not identified for a zone, a zoning interpretation may be requested according to Section 602 (F) of the Forester Ranch Specific Plan and Zoning Ordinance Section 17.04.040; and

WHEREAS, the applicant submitted a request for a zoning interpretation on January 23, 2024 that was deemed complete on March 14, 2024; and

WHEREAS, Zoning Ordinance Section 17.040.040, Interpretations, requires a City Planner or Planning Commission decision based on whether the interpretation is found to be minor or major; and

WHEREAS, the interpretation has been determined to be major; and

WHEREAS, on May 22, 2024, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, and other interested parties; and

WHEREAS, This Resolution and its findings are made based upon the testimony and evidence presented to the Commission at its May 22, 2024, hearing including, without limitation, the staff report submitted by City staff; and

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

Section 1: Incorporation of Recitals.

The Planning Commission hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the Planning Commission as fully set forth in this resolution.

Section 2: Interpretation Findings

With regard to INT 24-045, the Planning Commission determines a caretaker's unit is not a permitted use in the Sector G Coastal Zone area of the Forster Ranch Specific Plan, finding the following:

- A. The proposed caretaker's unit is not similar in nature to a listed use in terms of function. The primary use for the zone is limited to a golf course and drainage stream. The General Plan intends for private open space to be for "*[p]rivately owned parklands, recreational facilities, passive open space areas and golf courses*" (General Plan Land Use Element Table LU-1). The caretaker's unit is a residential unit and dissimilar to active recreational and supportive open space uses. Further, the zone allows accessory structures that are non-habitable in conjunction with the golf course with examples that include a clubhouse, garage for golf cart storage, kiosk for valet parking, etc. Each of these structures are non-habitable. The function of the proposed use is different. The caretaker's unit is to provide a habitable space with independent eating, sleeping, and sanitation facilities for golf course staff to live within to monitor, protect, and maintain the golf course premises on an ongoing basis. For these reasons, staff's position is that a caretaker's unit is dissimilar to the permitted uses in the zone;
- B. The proposed caretaker's unit has potential impacts to traffic, parking, dust, noise, or other impacts that are less restrictive than listed permitted uses in the zone. The golf course is the primary permitted use for the zone. Non-habitable accessory structures are allowed in conjunction with the golf course. These accessory structures support customer use of the golf course, unlike a residential unit that generate stand-alone traffic, parking, noise, dust, and other impacts. The proposed caretaker's unit is to provide a residential unit for independent eating, sleeping, and sanitation facilities on-site; and
- C. The proposed caretaker's use is inconsistent with the Land Use Policies (LUP). The site is designated Private Open Space 2 (OS2). Within Private Open Space (OS2) areas, the LUP allows "*privately owned parklands, beach parcels, recreational facilities, passive open space areas; habitat protection areas and golf courses. passive open space areas and golf courses*" (Coastal Land Use Plan Table 2-1). The caretaker's unit provides a dwelling to reside within, not provide facilities and open space to support active recreational and supportive open space uses, such as a golf course. The proposed use is intended for a residential or mixed-use area or housing overlay.

Section 3: Planning Commission Denial.

Based on the foregoing recitals and findings, and the written and oral comments, facts, and evidence presented, the City of San Clemente Planning Commission hereby denies Interpretation (INT) 24-045 and determines that a caretaker's unit is not a permitted use in the Sector G Coastal Zone area of the Forster Ranch Specific Plan.

PASSED AND ADOPTED at a regular meeting of the City of San Clemente Planning Commission on May 22, 2024.

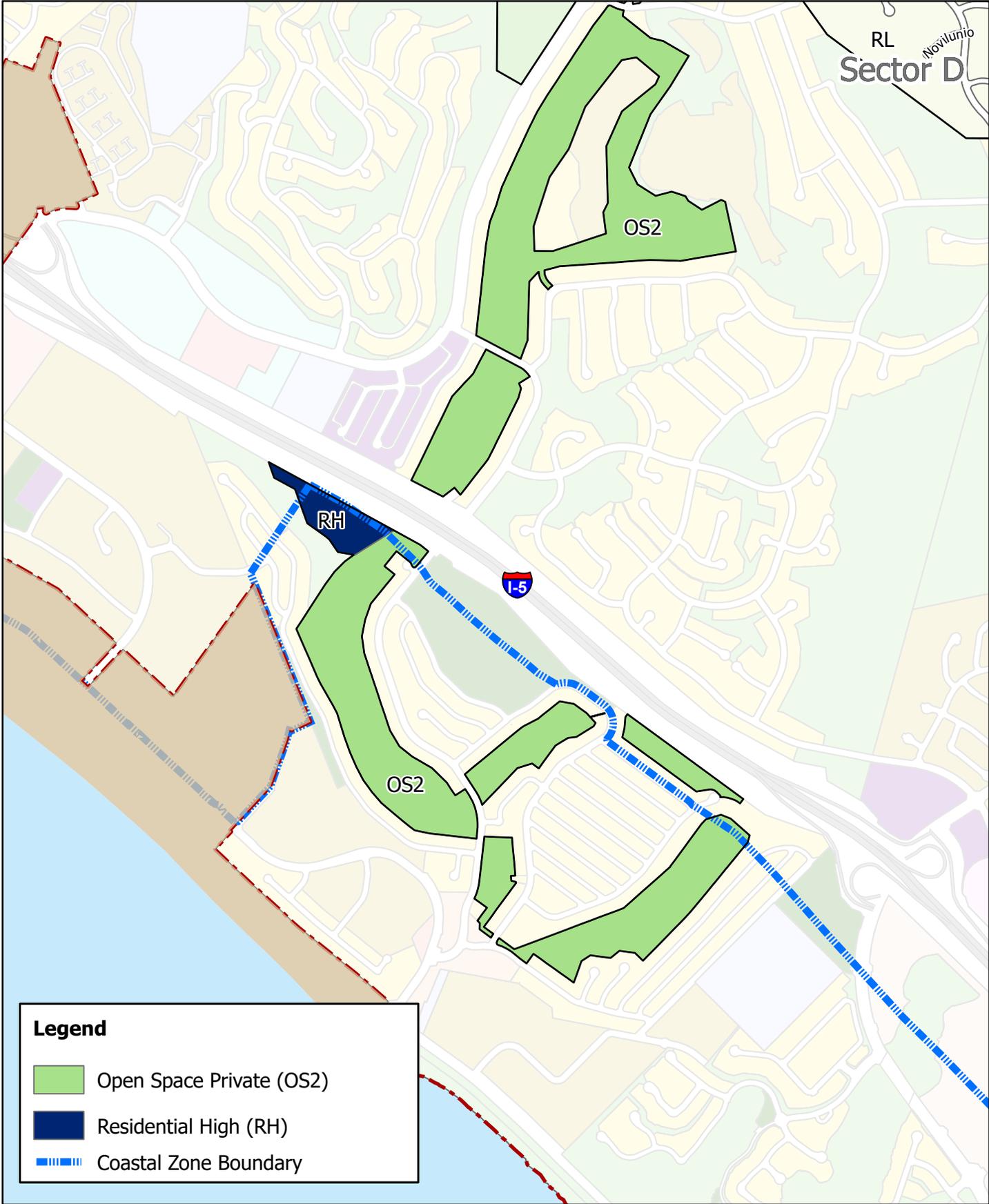
Chair

CERTIFICATION:

I HEREBY CERTIFY this Resolution was adopted at a regular meeting of the City of San Clemente Planning Commission on May 22, 2024, carried by the following roll call vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

Secretary of the Planning Commission



RL
Sector D
Novilunio

OS2

RH

I-5

OS2

Legend

- Open Space Private (OS2)
- Residential High (RH)
- Coastal Zone Boundary



Exhibit 2-3
Land Use Sector G
Forster Ranch Specific Plan 2-9

Scale: 1:13,360

0 500 1,000
Feet



508 SECTOR G COASTAL ZONE**A. PURPOSE AND APPLICABILITY**

1. Purpose - The purpose of this Section is to provide for:
 - a. The continued successful operation of the Shorecliffs Golf Course as a championship course,
 - b. Development of senior housing in the area presently occupied by the golf course driving range and clubhouse, that is consistent with the General Plan and Coastal Land Use Plan; and
 - c. Development standards that encourage quality design and development to enhance the City's image as a "Spanish Village by the Sea."
2. Applicability - This Section applies to the Sector G Coastal Zone golf course and senior housing site as designated on Exhibit 2-3.
3. Standards Not Listed - Whenever a standard or regulation is not set forth in this Specific Plan, the Zoning Ordinance shall regulate (see Appendix B for the appropriate Zoning Ordinance Section).
4. Land Uses Not Listed - In cases where it is not clear whether a proposed land use is permitted under this Section, refer to the Zoning Ordinance. If also not specifically addressed in the Zoning Ordinance, San Clemente Municipal Code (SCMC) Section 17.04.040 governs.
5. Site Plan Review - All projects regulated by this Section shall be subject to Site Plan Review in accordance with Section 601.
6. Design Guidelines - All development under this Section is also subject to the Design Guidelines set forth in Chapter 3.
7. Coastal Development Permit - All development within this area shall be subject to the requirements of the California Coastal Act and the City's Local Coastal Plan.

B. PRINCIPAL USES PERMITTED

1. Golf course and continued maintenance of the low flow conservation easement stream along the golf course.

C. CONDITIONAL USES PERMITTED WITHIN SENIOR HOUSING PORTION OF SECTOR G COASTAL ZONE

1. Senior residential (housing) development with the approval of a Conditional Use Permit. This conditionally permitted use is allowed on

an approximately six-acre area presently occupied by the golf course driving range and clubhouse. No other location shall be considered.

D. ACCESSORY USES AND STRUCTURES PERMITTED

1. Shorecliffs Golf Course. Within the Shorecliffs Golf Course, the following accessory uses and structures are permitted:
 - a. Accessory structures, non-habitable, in conjunction with a permitted use. Examples: clubhouse, garage for golf cart storage, kiosk for valet parking, etc.
 - b. Driving range.
 - c. Golf course pro shop that sells golf clothing, gifts, and sports equipment, if located within the golf course clubhouse.
 - d. Golf lessons.
 - e. Parking (for golf course and clubhouse, not senior residential).
 - f. Paths for golf carts, jogging, walking.
 - g. Restaurant, including a cocktail lounge (a Conditional Use Permit required for the sale of alcoholic beverages), if located within the golf course clubhouse.

2. Senior Housing Site. In addition to accessory uses and structures listed above in Paragraph 1, the following is allowed with a permitted senior housing development:
 - a. Cabanas, garages, gazebos, pergolas, sheds, and similar structures accessory to residential uses.
 - b. Courts for games. Examples: tennis, bocce ball.
 - c. Dining facilities (indoor and outdoor).
 - d. Exercise rooms if located within a building. Examples: dance, yoga, weights.
 - e. Park, picnic or nature areas.
 - f. Parking (parking for senior residential use must be located within the senior housing site, not within the golf course portion of Sector G).
 - g. Salon/Spa.
 - h. Swimming pools and spas.

E. DEVELOPMENT STANDARDS

As stated above, development projects are subject to Site Plan Review in accordance with Section 601. The following development standards apply:

1. Shorecliffs Golf Course. Within the Shorecliffs Golf Course, development standards for a clubhouse and/or accessory structures shall be established in conjunction with the Site Plan Review. Development standards shall be consistent with the General Plan and the purpose and intent of Sector G Coastal Zone.
2. Senior Housing Site. Within the senior housing area, development shall be subject to the RH zoning standards set forth in the City's Zoning Code. Parking requirements shall be in accordance with the standards for senior housing set forth in the Zoning Code.

509 SECTOR G INLAND**A. PURPOSE AND APPLICABILITY**

1. Purpose - The purpose of this Section is to provide for the continued use of the Shorecliffs Golf Course.
2. Applicability - This Section applies to the Sector G Inland golf course site as designated on Exhibit 2-3.
3. Standards Not Listed - Whenever a standard or regulation is not set forth in this Specific Plan, the Zoning Ordinance shall regulate (see Appendix B for the appropriate Zoning Ordinance Section).
4. Land Uses Not Listed - In cases where it is not clear whether a proposed land use is permitted under this Section, refer to the Zoning Ordinance. If also not specifically addressed in the Zoning Ordinance, San Clemente Municipal Code (SCMC) Section 17.04.040 governs.
5. Site Plan Review - All projects regulated by this Section shall be subject to Site Plan Review in accordance with Section 601.
6. Design Guidelines - All development under this Section is also subject to the Design Guidelines set forth in Chapter 3.

B. PRINCIPAL USES PERMITTED

1. Golf course and continued maintenance of the low flow conservation easement stream along the golf course.



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895 Dove Street
Second Floor
Newport Beach, CA 92660
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March 14, 2024

Michael W. Shonafelt
Michael.Shonafelt@ndlf.com

VIA EMAIL

Christopher Wright
Lead Project Planner
City of San Clemente
910 Calle Negocio
San Clemente, CA 92673
wrightc@san-clemente.org

Re: Request for Zoning Interpretation: INT 24-045 re 2632 Via Cascadita: Shorecliffs Golf Course Caretaker's Unit (APN 691-021-01)

Dear Christopher,

This office continues to represent OC Re-hab 1 LLC (“OCR”) with regard to the above-referenced project, consisting of a conditional use permit and a site plan permit for a caretaker’s facility located on APN 691-021-01 (“Project”) in the City of San Clemente (“City”). This responds to your February 23, 2024, letter and follows our February 28, 2024, telephone conversation regarding the above-referenced Request for Zoning Interpretation for the Project (“Zoning Interpretation”).

Your letter purports to “deem the application incomplete” for the Zoning Interpretation. Under the City’s own code, the City’s Zoning Interpretation application process is guided by the Permit Streamlining Act (Gov. Code, § 65920, et seq.) (“PSA”). (See, e.g., City of San Clemente Municipal Code, § 17.12.050 [invoking the PSA for determinations of application completeness].) Under the PSA, the City may request that an applicant “clarify, amplify, correct, or otherwise supplement” information already submitted, but the PSA prohibits any determination of completeness of an application based on a request for information that is not included on its pre-existing application checklist. (Gov. Code, §§ 65944, subd. (a); 65943, subd. (a).) We are not aware of any pre-existing requirement to supply a letter identifying a permitted use in the FRSP that is “similar” to the requested use. OCR reserves its rights under the PSA; it nevertheless supplies this letter in a good faith effort to respond to your request and assist Staff as it prepares this matter for a hearing before the Planning Commission.

As discussed in OCR’s January 23, 2024, letter to the Planning Commission, your request to have OCR “identif[y] a “permitted use” the in FRSP that you propose to be similar” to the proposed caretaker’s unit proceeds on a misplaced assumption that

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the Project use is somehow “accessory” to a permitted use of the Forster Ranch Specific Plan (“FRSP”). From that misplaced assumption, Staff relies on section 508.D.1.a. of the FRSP, which provides for “accessory structures, non-habitable, in conjunction with a permitted use.” (FRSP, § 508.D.1.a, p. 5-24.) Staff arrives at the incorrect conclusion that, because it is habitable, the caretaker’s facility is not allowed under section 508.D.1.a.

Staff’s reliance on section 508.D.1.a of the FRSP is erroneous because it misinterprets the caretaker’s unit as “accessory” to a permitted use. In fact, caretaker’s units qualify as independently permitted uses in their own right because (1) the FRSP repeatedly establishes OS2 zoning for Sector G of the FRSP (see, e.g., FRSP, Fig. 1-4, Exhs. 2-1, 2-3); (2) the City’s interactive zoning map also identifies the Project site as within the OS2 zoning district (see <https://sanclementeca.maps.arcgis.com/apps/instant/lookup/index.html?appid=48ff65d9ee754e36bec707ac786c652b&findSource=1&find=691-021-01>); and (3) existing zoning makes clear that a caretaker’s **unit is a conditionally permitted use in the OS2 Zoning District** -- the applicable zoning in the Project site (see City of San Clemente Zoning Code, § 17.44.020; Table 17.44.020; City of San Clemente Land Use Element, Figure LU-IA). As a conditionally permitted use, the Project is not “accessory” to a permitted use. It is a stand-alone, independently permitted use in the OS2 Zoning District. That OS2 zoning and its uses are in full harmony with both the City’s Land Use Element and Land Use Plan, both of which identify the Project site as “OS-2” and neither of which features any provision that overrides Table 17.44.020.

Staff’s interpretation impermissibly imposes the “non-habitable” accessory structure restriction to preclude a **permitted** use, when, in fact, that restriction is only applicable to “accessory structures” that are “**in conjunction with a permitted use.**” (FRSP, § 508.D.1.a, p. 5-24, emphasis added.) In drawing a conclusion that the Project is merely ancillary to a permitted use, instead of a stand-alone conditionally permitted use in the OS-2 zoning district, Staff extended a misplaced interpretation of the City’s zoning documents and an improper prohibition of the Project. Staff’s interpretation: (1) tends to disrupt the vertical consistency between the City’s General Plan and its Zoning Code; (2) impedes compliance with COA 4.12 and the approved Management Plans submitted in fulfillment of COA 4.12 for the Larger Project; and (3) disrupts the scheme of the Larger Project approval, which clearly envisioned on-site caretakers for both the Senior Housing Facility and the Golf Course Clubhouse.¹

Under California law, local governments are required to adopt a general plan, which serves as the blueprint for local land use policy. (Gov. Code, §§ 65300 et seq.) Different sections of a local government’s general plan cannot contradict or conflict with one another (a principle called “vertical consistency”). (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 570; *Friends of Lagoon Valley c. City of Vacaville* (2007) 154 Cal.App.4th 807.) Furthermore, plans must also be “horizontally consistent” with other land use regulatory mechanisms, such as specific plans and

zoning ordinances. (*Ibid.*, Gov. Code § 65860, subd. (a).) Where a subordinate document, such as a specific plan, introduces a disruption to the vertical consistency between the general plan and zoning code, the subordinate document must yield to the vertical harmony between the general plan and zoning code. (See, e.g., Gov. Code, § 65454; *Orange Citizens for Parks & Recreation v. Superior Court* (2016) 2 Cal.5th 141, 155.) In this case, Staff’s interpretation of the FRSP cannot stand because it works an unresolvable conflict between the FRSP, a subordinate planning document, and the General Plan and Zoning Code, both of which allow caretakers units in the O2 zone as a conditional use. In fact, Ordinance 1639, which was the legislative action resulting in the amendment of the FRSP, makes clear that the sole purpose of that ordinance was to ensure that the FRSP is **consistent** with the Centennial General Plan and the OS2 zoning. (See Ordinance 1639 (April 4, 2017).)

Staff is obligated, as a matter of law, to interpret the FRSP in a manner that both preserves consistency in the hierarchy of the City’s superior planning documents **and** facilitates compliance with COA 4.12 of the March 26, 2019, approvals for the Larger Project, as well as the Management Plans approved as part of that condition.¹ On this point, the FRSP itself makes implicit allowance for such an interpretation. Specifically, section 508.A.3, 4, allows a determination by the Planning Commission that an unlisted use is allowed in Sector G of the FRSP where it is “consistent with the Purpose [of the FRSP]”:

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

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

(FRSP, § 508.A.3, 4.) In this case, not only is the caretaker’s unit consistent with the vision of the Shorecliffs Senior Housing Facility and Golf Course Clubhouse, it is also necessary to fulfill the conditions of approval of the Larger Project, which clearly envision 24-hour caretaker capability on both the Senior Housing side and the Golf Course side.

¹ Given the role of this request as a zoning interpretation which does not address quasi-adjudicative decision on projects, an in-depth explanation of COA 4.12 of the Larger Project and its contemplation of a subsequent CUP for a caretaker’s unit (the Project) is not provided here. Discussion of COA 4.12 is provided with the October 6, 2023, correspondence between the undersigned and Cecilia Gallardo-Daly, the City’s prior Community Development Director. That correspondence is included herewith.

Christopher Wright
March 14, 2024
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In light of the foregoing, the Project need not be snagged on the “non-habitable” structure prohibition, nor is a request to identify a “similar” permitted use a relevant inquiry in light of the above.

Thank you for your consideration of this matter. If you have any questions about this letter, please do not hesitate to call me.

Very truly yours,



Michael W. Shonafelt

MWS

cc: Adam Atamian, Director of Community Development,
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