

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863



W16a

Appeal filed:	1/11/2006
Substantial Issue Found:	2/10/2006
Staff report prepared:	9/25/2008
Staff report prepared by:	Susan Craig
Staff report approved by:	Charles Lester
Hearing date:	10/15/2008

APPEAL STAFF REPORT - DE NOVO HEARING

Application numberA-3-SCO-06-006, Willmott SFD

Applicant.....Graham and Pamela Willmott

Appellants.....Commissioners Meg Caldwell and Sara Wan

Local governmentSanta Cruz County

Local decisionApproved with conditions by Zoning Administrator (December 2, 2005).

Project locationBlack's Point at 100 Geoffroy Drive (APN 028-143-43) in the unincorporated Live Oak area of Santa Cruz County.

Approved Project.....Demolish existing 3,345 square foot one-story SFD and construct a new two-story, 7,021 square foot, six-bedroom SFD.

File documents.....Santa Cruz County Certified Local Coastal Program (LCP); Santa Cruz County Coastal Development Permit #02-0548; Supplemental materials submitted by the Applicants

Staff recommendation ...Approve with Conditions

Summary of Staff Recommendation: Santa Cruz County approved a Coastal Development Permit (CDP) to allow the demolition of an existing 3,345 square foot one-story single-family dwelling and construction of a new two-story, six bedroom, 7,021 square-foot single family dwelling (SFD) with a 20-foot-wide wraparound deck, landscaping, and other associated development on the bluff top at Black's Point in the unincorporated Live Oak area of Santa Cruz County. The County's approval was subsequently appealed to the California Coastal Commission. On February 10, 2006, the Commission found that a substantial issue was raised with respect to the proposed project's consistency with the Santa Cruz County Local Coastal Program (LCP) regarding natural hazards, protection of public views, and public access and recreation, and took jurisdiction over the CDP application.

The proposed project site is located within significant public viewsheds including Twin Lakes State Beach (which is located directly upcoast of the project site) and (to a lesser extent) from downcoast bluff and beach areas, such as the accessway at Sunny Cove Beach and from the Santa Maria Cliffs and 26th Avenue Beach. The project site is also located on a unique geologic feature and natural landform (and local landmark) known as Black's Point. Black's Point extends several hundred feet into the ocean. Given the orientation of the shoreline as it shifts direction at Black's Point, the visibility of the



site is maximized compared to neighboring residential development that is located farther inland than the project site. Black's Point is the defining feature of this stretch of Twin Lakes State Beach, which is the most heavily used beach in the unincorporated Santa Cruz County area.

The proposed residential structure would adversely impact public views of Black's Point and the ocean by increasing the size, mass, and seaward encroachment of residential development at this sensitive location, inconsistent with the LCP's requirements that protect public viewsheds and natural landforms. To ensure that the proposed development is consistent with the visual requirements of the LCP, staff recommends conditions to require a reduction in the seaward encroachment of the first and second stories of the proposed residence. These reductions will pull the first floor back sufficiently such that it approximates the viewshed location of the existing SFD, and will pull the second floor back so that it is even with a stringline of the second floors of adjacent SFDs as seen from Twin Lakes State Beach. Additional conditions to protect the public viewshed, including the geologic feature of Black's Point, include: 1) requiring that the roof elevation of the first floor not exceed the roof elevation of the existing single-family dwelling on the site; 2) a revised landscaping plan to include low-growing native plants; 3) a requirement for visually unobtrusive cable rails for the rooftop deck on the first-story portion of the proposed residence; 4) a prohibition on any future development on the site that would be visible from public viewing areas, and; 5) a scenic easement over the bluff-top portion of the site.

A sea cave is forming on the upcoast side of the project site at a point where Black's Point begins and stretches seaward. The project site is also subject to significant erosion and weathering processes all along the Point itself. The Commission's staff geologist has reviewed relevant geotechnical information and concurs with the Applicants' consultants that the proposed bluff-top setback for the residential structure is sufficient to provide a stable building site without shoreline armoring over the 100-year lifetime of the structure, consistent with the requirements of the Santa Cruz County LCP. To ensure that this is the case, staff recommends conditions to prohibit the construction of any future shoreline protective device to protect the proposed residence over its lifetime, to require the Applicants and all successors in interest to assume all risks for development due to the project's location on Black's Point, and to require recordation of a deed restriction that binds the Applicants and all successors in interest to the terms and conditions of this permit.

In addition, another sea cave is located on the downcoast side of the project site. The two caves, if left alone, would be naturally working towards each other from opposite sides of the Point. The downcoast cave, however, was filled with concrete pursuant to an emergency permit issued to the previous property owner by the Commission in 1990. However, a follow-up coastal development permit to authorize the work completed pursuant to the emergency permit was never obtained. To resolve this permit status issue, this approval is designed to recognize the sea cave plug because an existing residence (the existing SFD on the project site) would be in danger from erosion without the sea cave plug (the downcoast sea cave is located under the existing residence). To mitigate for the impacts of the sea plug, this permit is conditioned to require payment of a fee to State Parks for public access and recreation improvements at Twin Lakes State Beach.



As conditioned, the proposed project can be found consistent with the requirements of the certified Santa Cruz County LCP and the public access and recreation policies of the Coastal Act. The motion and resolution to approve the project subject to the staff recommendation are found on pages 3-4 of this report.

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I. Staff Recommendation on CDP

Staff recommends that the Commission, after public hearing, approve a coastal development permit for the proposed development subject to the standard and special conditions below.

Motion. I move that the Commission approve Coastal Development Permit Number A-3-SCO-06-006 pursuant to the staff recommendation.

Staff Recommendation of Approval. Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve a CDP. The Commission hereby approves the coastal development permit on the grounds that the development as conditioned, will be in conformity with the provisions of the Santa Cruz County certified Local Coastal Program and the Public Access and



Recreation policies of Chapter 3 of the Coastal Act. Approval of the coastal development permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Conditions of Approval

A. Standard Conditions

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

B. Special Conditions

1. **Revised Project Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittees shall submit for Executive Director review and approval two full-size sets of revised project plans substantially in conformance with the proposed project plans (titled "Willmott Residence 7/18/05" and dated received in the Coastal Commission's Central Coast District Office on December 27, 2005) but that include the following changes to the proposed project plans:
 - (a) **First Floor Reduction.** The first floor of the residence shall be reduced so that it is 7 feet further inland than shown on the project plans in Exhibit B;
 - (b) **Wraparound Deck.** The wraparound deck shall be eliminated;



- (c) **Second Story Reduction.** The second story shall be reduced so that all portions of it are located behind the “stringline” shown in Exhibit F;
- (d) **First Story Height.** The single story portion of the residence that extends seaward from the “stringline” and any decking shall not shall exceed the height of the existing single-family dwelling in this area;
- (e) **Deck Railings.** All railings for the deck located on top of the first story portion of the residence shall be made of visually unobtrusive cable rail designed to limit visibility from public viewing areas as much as possible;
- (f) **Sea Cave Locations.** The locations of the sea caves on the plans shall correspond to the locations determined by the Applicants’ geotechnical consultants. The required geological setbacks shall be shown on the plans.
- (g) **Exterior Materials and Finishes.** All exterior materials and finishes shall be natural (i.e. wood or wood-simulated sheathing, shingles, trim, roof, etc.) and consistent in color with the natural bluffs (i.e., greens, browns, beiges, etc.). Stucco exterior is prohibited. A variety of articulations shall be used and a flat façade and roofline (except for the first story deck) shall be avoided.
- (h) **Drainage.** Inclusion of drainage plans that will implement the drainage proposals for the project site as described in Exhibit H.
- (i) **Exterior Lighting.** The revised project plans shall include a notation prohibiting exterior lighting from casting light onto the adjacent beach/intertidal areas and the rocky shelf area.

2. **Construction Best Management Practices.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two copies of a Construction Best Management Practices Plan (Construction Plan) to ensure sediment control and protection of the water quality of nearby coastal waters during construction. The Construction Plan shall identify the types and locations of the measures that will be implemented during construction to prevent erosion, sedimentation, and the discharge of pollutants during construction, and to limit construction activities outside of the residential development footprint as much as possible. These measures shall be selected and designed in accordance with the California Storm Water Best Management Practices Handbook. Among these measures, the plans shall limit the extent of land disturbance to the minimum amount necessary to construct the project; designate areas for the staging of construction equipment and materials, including receptacles and temporary stockpiles of graded materials, which shall be covered on a daily basis; and provide for the installation of silt fences, temporary detention basins, and/or other controls prior to commencement of construction to intercept, filter, and remove sediments contained in the runoff from construction, staging, and storage/stockpile areas. Runoff and/or construction debris shall be contained on the bluff top and shall not be allowed to extend over the bluff top edge onto the rock shelf, the beach, or the Pacific Ocean. The Construction Plan shall also incorporate good construction housekeeping measures, including the use of dry cleanup



measures whenever possible; collecting and filtering cleanup water when dry cleanup methods are not feasible; cleaning and refueling construction equipment at designated offsite maintenance areas; and the immediate clean-up of any leaks or spills. The Construction Plan shall also provide that all construction work shall take place during daylight hours, and that construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.

3. Construction Site Documents & Construction Coordinator. DURING ALL CONSTRUCTION:

- (a) Construction Site Documents.** Copies of the signed coastal development permit and the approved Construction Best Management Practices Plan shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the coastal development permit and the approved Construction Best Management Practices Plan, and the public review requirements applicable to them, prior to commencement of construction.
- (b) Construction Coordinator.** A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and their contact information (i.e., address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with the indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.

4. Landscaping Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittees shall submit for Executive Director review and approval a landscaping plan. The landscaping plan shall provide for the following:

- (a)** Identification of all plantings and irrigation details for the site;
- (b)** Retention of the existing cypress trees on the site;
- (c)** Removal of all invasive plant species on the site;
- (d)** The planting of appropriate California bluff-top native plant species that are tolerant of salt air and salt spray and that do not exceed four feet in maximum height. Plants shall be replaced as necessary. The native landscaping shall be maintained for the life of the project.



5. Public Viewshed Open Space Area. Development, as defined in Implementation Plan Section 13.20.040 of the Santa Cruz County LCP, shall be prohibited in the area seaward of the residential development (see Exhibit I for a graphic depiction of the Public Viewshed Open Space Area) described and depicted in an exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit except for:

- (a) Landscaping consistent with the terms of the approved Final Landscape Plan;
- (b) Maintenance of existing development on the site, including the existing split-rail fencing, the stairway leading to the rocky shelf, existing retaining wall structures, etc.

PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS PERMIT, the Permittee shall submit for review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, which shall include all of the area seaward of the approved residence as shown in Exhibit I.

6. Future Development. This permit only authorizes the development described in Coastal Development Permit (CDP) No. A-3-SCO-06-006. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to any future development at this location. Accordingly, any future improvements or modifications to the single family dwelling and associated development authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a) and 13252(b), shall require an amendment to Permit No. A-3-SCO-06-006 from the Coastal Commission.

7. Public Access/Sand Supply Mitigation. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit to the Executive Director evidence that a public access/sand supply mitigation fee of \$10,000 has been deposited into an interest-bearing account to be established and managed by State Parks or another appropriate entity as approved by the Executive Director. The sole purpose of the fee/account shall be for public beach recreational access improvements (such as benches, picnic tables, trail improvements, interpretive signage, etc.) at the portion of Twin Lakes State Beach (including Bonita Lagoon) that is located adjacent to Black's Point. The entire fee and any accrued interest shall be used for the above-stated purpose, in consultation with the Executive Director, within ten years of the fee being deposited into the account. Any portion of the fee that remains after ten years shall be donated to one or more of the State Parks units located in the vicinity of Twin Lakes State Beach, or other organization acceptable to the Executive Director, for the purpose of public beach access improvements. PRIOR TO EXPENDITURE OF ANY FUNDS CONTAINED IN THIS ACCOUNT, the Executive Director must review and approve the proposed use of the funds as being consistent with the intent and purpose of this condition.



8. Coastal Hazards Assumption of Risk, Waiver of Liability, and Indemnity Agreement. By acceptance of this permit, the Permittees acknowledge and agree on behalf of themselves and all successors and assigns:

- (a) That the site is subject to extreme coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, coastal flooding, landslides, and geologic instability;
- (b) To assume the risks to the Permittees and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development;
- (c) To unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards;
- (d) To indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards, and;
- (e) That any adverse effects to property caused by the permitted project shall be fully the responsibility of the Permittees.

9. No Future Seawall or Shoreline or Bluff Protective Device. By acceptance of this Permit, the Permittees agree, on behalf of themselves and all successors and assigns, that:

- (a) No shoreline protective device(s) (including, but not limited to, seawalls, revetments, gunnite, upper bluff retaining walls, gabion baskets, etc.) shall ever be constructed to protect the development authorized by this permit (including, but not limited to, the residence, foundations, wine cellar, garage and driveway) in the event that such development is threatened with damage or destruction from coastal hazards including, but not limited to, episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, coastal flooding, landslides, and geologic instability;
- (b) The Permittees waive any rights to construct such devices that may exist under Public Resources Code Section 30235;
- (c) The landowner(s) shall remove the development authorized by this Permit if any government agency has ordered that the structures are not to be occupied due to any of the coastal hazards identified above, and;
- (d) In the event that portions of the development fall to the beach before they are removed, the landowner(s) shall remove all recoverable debris associated with the



development from the beach and ocean and lawfully dispose of the material in an approved disposal site, and such removal shall be done in consultation with the Executive Director of the Commission.

10. Future Marketing. All documents related to any future marketing and sale of the subject property, including but not limited to marketing materials, sales contracts, deeds, and similar documents, shall notify buyers that:

- (a) Development seaward of the approved residence is prohibited except for maintenance of native landscaping and maintenance of existing development on the site such as split-rail fencing, stairs to the rocky shelf, etc.;
- (b) That the site is subject to extreme coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, coastal flooding, landslide, and geologic instability;
- (c) Shoreline protective device(s) (including, but not limited to, seawalls, revetments, gunnite, upper bluff retaining walls, gabion baskets, etc.) are prohibited to protect the development authorized by CDP A-3-SCO-06-006.

11. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittees shall submit for Executive Director review and approval documentation demonstrating that the Permittees have executed and recorded against the parcel governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description and site plan of the entire parcel governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

III. Coastal Development Permit Determination

In this de novo review of the proposed CDP application, the standard of review is the Santa Cruz County certified LCP and, because the project is located between the first public road and the sea, the public access and recreation policies of the Coastal Act.

A. Project Location and Description



The proposed project site is located on the bluff-top area just inland of Black's Point at 100 Geoffroy Drive in the unincorporated Live Oak area in Santa Cruz County (see Exhibit A for project location maps). This stretch of coastline at Black's Point is described by a row of private residential properties that are perched on the bluff tops located seaward of East Cliff Drive and Geoffroy Drive, the first through public roads. Black's Point is a significant landform and geologic feature that extends perpendicularly from the general trend of the shoreline bluff and out into the Monterey Bay about 200 feet (see Exhibit C for aerial photographs of Black's Point). As such, the project site and the existing residence are located somewhat further seaward than surrounding residences. The proposed project site is located directly adjacent to, and thus is highly visible from, Twin Lakes State Beach. The project site is also visible from a number of other public viewing areas in the Live Oak area, including the Santa Maria Cliffs and the 26th Avenue Beach, which are both located downcoast from the proposed project site.

Both the upcoast and downcoast sides of the project site are eroded at the base of the bluff and sea caves have formed in two areas (see page 2 of Exhibit C). The downcoast sea cave was plugged with concrete pursuant to an emergency permit granted to the previous property owner in 1990.¹ The sea cave on the upcoast side of the project site, i.e. the Twin Lakes State Beach side, remains unarmored.

The proposed project includes the demolition of an existing 3,345 square foot (includes the garage, and a covered deck) one-story single-family dwelling and construction of a new two-story, six-bedroom, 7,021 square-foot (including the garage and a covered porch) single family dwelling with a 20-foot-wide wraparound deck, landscaping, pathways, and other associated development on the bluff-top at Black's Point in the unincorporated Live Oak area of Santa Cruz County (see Exhibit A for the project location maps and Exhibit B for project plans). As proposed, the inland part of the project would take place on land designated/zoned by the LCP for residential uses, and the seaward part would take place on a part of the property designated/zoned by the LCP for parks, recreation, and open space (see Exhibit D).

In the time since this matter was last before the Commission, the Applicants have submitted revised project plans to the Commission that reduce the seaward extents of the first and second stories of the house by approximately 7 and 23 feet respectively, and that eliminate the wraparound deck. These revised project plans help provide a useful context regarding one version of an alternate project that could be pursued at this site, but the proposed project for the purposes of the Commission's review remains that that was originally proposed and approved by the County during the local review process.

¹ Emergency Permit 3-90-112-G was issued in 1990 to the previous property owners (Norman and Doris Landess). The emergency permit allowed for concrete fill of a sea cave that straddles the subject property and the adjacent property at 110 Geoffroy Drive. A follow-up coastal development permit authorizing the sea cave plug approved under the emergency permit was never obtained. Emergency permit 3-90-112-G only authorized temporary development. Because the sea cave plug has not been recognized by a follow-up CDP, it is unpermitted. See also Natural Hazards finding.



B. Visual Resources

1. Applicable Policies

The LCP has multiple provisions that require development to be sited and designed to ensure protection of significant visual resources, including views of significant geological features such as Black's Point. The LCP also contains provisions for residential development for land designated Urban Low Density Residential and Parks and Recreation (the proposed project site has both these land use designations). Applicable LCP policies and Implementation Plan sections include:

LCP Policy 5.9.1: Protection and Designation of Significant Resources. *Protect significant geological features such as caves, large rock outcrops, inland cliffs and special formations of scenic or scientific value, hydrological features such as major waterfalls or springs, and paleontological features, through the environmental review process. Designate such sites on the General Plan and LCP Resources and Constraints Maps where identified...*

LCP Policy 5.9.2: Protecting Significant Resources Through Easements and Land Dedications. *Encourage and obtain where possible Open Space Easements or other forms of land dedication to conserve as open space those areas containing hydrological, geological, or paleontological features of significant scenic or scientific value.*

LCP Objective 5.10a: Protection of Visual Resources. *To identify, protect and restore the aesthetic values of visual resources.*

LCP Objective 5.10b: New Development in Visual Resource Areas. *To ensure that new development is appropriately designed and constructed to have minimal to no adverse impact upon identified visual resources.*

LCP Policy 5.10.2: Development Within Visual Resource Areas. *Recognize that visual resources of Santa Cruz County possess diverse characteristics and that the resources worthy of protection may include, but are not limited to, ocean views, agricultural fields, wooded forests, open meadows, and mountain hillside views. Require projects to be evaluated against the context of their unique environment and regulate structure height, setbacks and design to protect these resources consistent with the objectives and policies of this section...*

LCP Policy 5.10.3 Protection of Public Vistas. *Protect significant public vistas as described in policy 5.10.2 from all publicly used roads and vista points by minimizing disruption of landform and aesthetic character caused by grading operations, timber harvests, utility wires and poles, signs, inappropriate landscaping and structure design. Provide necessary landscaping to screen development which is unavoidably sited within these vistas.*

LCP Policy 5.10.7: Open Beaches and Blufftops. *Prohibit the placement of new permanent structures which would be visible from a public beach, except where allowed on existing parcels of record, or for shoreline protection and for public beach access. Use the following criteria for allowed structures: (a) Allow infill structures (typically residences on existing lots of record)*



where compatible with the pattern of existing development. (b) Require shoreline protection and access structures to use natural materials and finishes to blend with the character of the area and integrate with the landform.

Implementation Plan Section 13.20.130(b)(1): Entire Coastal Zone. *The following Design Criteria shall apply to projects sited anywhere in the coastal zone: 1. Visual Compatibility. All new development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas...*

LCP Objective 2.8: Urban Low Density Residential Designation (R-UL). *To provide low density residential development (4.4 to 7.2 units per net developable acre) in areas within the Urban Services Line which have a full range of urban services, or in Urban or Rural Services Line areas currently developed to an urban density. Housing types appropriate to the Urban Low Density designation may include detached houses, duplexes, and clustered small lot detached units at allowable densities.*

LCP Policy 2.8.1: Minimum Lot Sizes. *Allow residential development at densities equivalent to 6,000 to 10,000 square feet of net developable parcel area per unit. Increased density incentives for projects with a large percentage of very low, or lower income housing are also allowed in accordance with State law.*

LCP Policy 7.1.3: Parks, Recreation and Open Space Uses. *Allow low intensity uses which are compatible with the scenic values and natural setting of the county for open space lands which are not developable; and allow commercial recreation, County, State and Federal parks, preserves, and biotic research stations, local parks and passive open space uses for park lands which are developable.*

Implementation Plan Section 13.10.352(b): Parks, Recreation and Open Space Uses. *Allowed uses...Residential uses, permanent, such as: One single-family dwelling...*

Implementation Plan Section 13.10.321(d): Specific “R-1” Single-Family Residential District Purposes. *To provide for areas of predominantly single-family residential development in areas which are currently developed to an urban density or which are inside the Urban Services Line or Rural Services Line and have a full range of urban services, or are planned for a full range of urban services.*

2. Consistency Analysis

Black’s Point is a significant landform and geologic feature that extends perpendicularly from the general trend of the shoreline bluff and out into the Monterey Bay about 200 feet. As such, the site and the existing residence are located further seaward than surrounding residences. Black’s Point is located at the downcoast end of Twin Lakes State Beach and is the defining geological feature along this section of coast. Because of the orientation of Black’s Point, the proposed project site is extremely visible. Thus, any residential development extending into the blue sky views above the Point will present a stark silhouette. Black’s Point and the proposed development site are visible from significant public viewing



areas up and down coast (including highly used beach and bluff areas), as well as from offshore. See Exhibit C for aerial photographs of Black's Point and see Exhibit E for existing views of Black's Point and the site from upcoast and downcoast.

The proposed residential structure is larger than typical Live Oak residences and will adversely impact significant public views from beaches and bluff-top areas near Black's Point by increasing the size, mass, and seaward encroachment of residential development at this sensitive location. Specifically, the project includes demolition of a 3,345 square foot (including garage and covered deck) single-story residence (which has a maximum height of approximately 9 to 10 feet) and replacement construction of a two-story, 7,021 square foot residence (including garage and covered porch) with a height ranging from about 24 feet to a maximum of 28 feet.² In response to geologic constraints on both upcoast and downcoast sides of the project site, the proposed residence is long and narrow, extending perpendicularly to the coast and out towards Black's Point, thus maximizing its incursion into the viewshed in relation to its size (see page 2 of Exhibit C). The proposed project would extend significantly into the blue sky view and the silhouette of Black's Point, particularly from the more significant Twin Lakes State Beach viewshed where its prominence would be emphasized by its location well seaward of nearby residences, and the fact that it would look over the beach area near the Point itself. The proposed project would extend 22 feet further seaward than the existing residence. See Exhibit B for project plans; see Exhibit E for visual simulations of the proposed project.

The proposed project site is extremely visible from significant public recreational use areas, including the bluff-top accessways at Sunny Cove beach and from the Santa Maria cliffs and the beach at 26th Avenue (both located downcoast of the project site – see Exhibit E and page 2 of Exhibit C), but the project's main visual impact would be to the Twin Lakes State Beach area directly adjacent to the project site (see Exhibit C). Currently, the existing single-story residence is not highly visible from either upcoast or downcoast views and does not significantly intrude into the view of Black's Point from either side of the Point (see pages 1 and 3 of Exhibit E). This is primarily because the existing residence is one story with an almost flat roof and a maximum height of about 10 feet, and it is partially obscured by an existing cypress tree. The proposed project, however, would be highly visible from Twin Lakes State Beach, the Santa Maria Cliffs, and 26th Avenue Beach, and the Sunny Cove overlook areas due to its two-story maximum 28-foot (which is almost three times the height of the existing residence), and its seaward extension compared to the existing residence on the site (see pages 2 and 4 of Exhibit E). This visual intrusion would be inconsistent with the LCP's policies that require protection of significant public viewsheds and visual resources, which specifically include prominent geological features such as Black's Point. The proposed project would also be inconsistent with the LCP's requirement that new residential development that is visible from a public beach be visually compatible with the pattern of existing development, and the LCP's requirement to avoid siting development in significant public vistas such as this one. In sum, the proposed project would introduce substantial residential development into a protected public viewshed that includes a unique geologic feature and landmark, significantly adversely affecting this protected open space viewshed, inconsistent with the LCP. The

² The project plans show roof heights ranging from 23'-10" to 26'-8", but the project plans also include a notation stating "Height may vary slightly due to framing and foundation requirements. No point shall exceed the [zoning] maximum height of 28'-0"."



proposed project cannot be found consistent with the LCP in this respect.

In addition, the project extends off the residentially/zoned designated portion of the site into the portion of the site designated/zoned for Parks, Recreation, and Open Space uses (see Exhibit D). Residential development in this area is clearly inconsistent with the purpose and objectives of this LCP land use designation.

Fortunately, project modifications are available to reduce such impacts to a degree that the project can be found consistent with the LCP. Specifically, the project's major visual impact comes from the intrusion of the proposed second story into the Black's Point viewshed. By reducing the seaward extents of the second story and (to a lesser extent) the first story, and by maintaining the existing first story profile in terms of height, this impact can be dramatically reduced.

With respect to the first story footprint and profile, the most obvious approach for limiting new viewshed incursion is to only allow development within the existing footprint and profile. The project site, however, is constrained by the odd shape of the parcel, which is very narrow along the portion of the parcel located closest to Geoffroy Drive, and then expands in width on the seaward side of the parcel (see page 2 of Exhibit A). The proposed project would extend the first floor seaward by about 23 feet, compared to the first floor of the existing SFD. The Applicants have proposed pulling the first story back 7 feet from that shown in the project plans in Exhibit B; thus, the first floor would extend 16 feet seaward compared to the existing SFD. Because of the project site's limitations and the fact that the first floor will not be highly visible from Twin Lakes State Beach in comparison to the existing residence (because of its narrow profile compared to the existing residence's "hammerhead" type profile), this approval allows the first story footprint to extend 16 feet further seaward than the existing house, including 8 feet into the open space land use designation. Although this will introduce some additional residential development into the public viewshed from downcoast of the site, the primary Twin Lakes State Beach view would be unaffected because the orientation of the existing residence is such that it would be seen as the same seaward extension as seen from upcoast. The additional incursion will allow for more residential square footage (particularly given the need to also reduce upper floor development – see below) and can be offset by eliminating the proposed wraparound deck (also required for geological hazard conformance) and limiting the elevation of the first story part of the new structure to that of the existing structure (approximately 10 feet). Given that the Applicants are proposing a deck on top of the first story portion of the structure, all decking will also be required not to exceed the elevation of the existing residence. Any railings extending above this elevation would need to be designed to be as invisible as possible while avoiding glass barriers due to the potential dangers to birds (e.g., use of a limited profile cable railing system would meet both of these objectives). Although a portion of the allowed footprint extends into the open space designated area, it can be allowed under the LCP as a conditional use (see also Public Access finding below).

With the footprint thus established, there are also a variety of approaches that can be used to identify how much of the second story would need to be eliminated to bring the structure into LCP conformance such that the second story will be in line with views of existing adjacent two-story residences. Perhaps the most obvious way to accomplish this objective under the LCP would be to limit second story development so that new development in the public vista is minimized, per LCP policy 5.10.3. One



approach to identify how far seaward a second floor could extend would be to apply a stringline along existing second floor structures in the viewshed. Such a stringline approach, however, is complicated by the orientation of this site in relation to surrounding development and public viewing areas. The most conservative stringlines (i.e. for keeping development out of the public vista) would be drawn from viewing locations nearest the ocean along the beach, both upcoast and downcoast. Such a stringline, though, would dramatically limit the square footage of the second floor. Another stringline approach would be to focus on the more prominent upcoast viewshed, i.e. Twin Lakes State Beach, and run a stringline along existing second floor development. This approach is akin to a view more inland from the ocean in the middle of the beach, looking along the line of existing residential development to the site. This approach values the more inland viewpoints, avoids new second story development in the public vista as seen from there, but allows some new incursion into the viewshed as seen along the immediate shoreline (see Exhibit F). Although some new development would rise into the blue sky view with this stringline approach, as seen from public viewing areas, it strikes an appropriate balance at this site given the unique property configuration and issues. Reducing the second story such that it is located completely behind the stringline³, and reducing the seaward extent of the first floor by 7 feet (see Special Condition 1) will allow for a total maximum square footage of approximately 5,700 square feet over the two floors.

Even with the footprint and profile established to address LCP viewshed and open space/geologic feature issues, there will still be additional incursion into the public viewshed. This can be mitigated by ensuring that the portion of the second floor in the major public view (i.e. as seen from Twin Lakes State Beach) includes design articulation (varied offsets, projections, and shadow patterns as opposed to an unbroken façade and roofline) to help it “recede” in this view,⁴ by ensuring that landscaping effectively blends into the natural Black’s Point aesthetic, including keeping vegetation (other than the existing cypress trees) low profile, by requiring that exterior residential features blend into the natural aesthetic (i.e. natural colors and materials, non-reflective windows), by recording a deed restriction that prohibits additional development in the viewshed, and by requiring a Commission-approved CDP amendment for any future development at the site (see Special Conditions 1, 4, 5 and 6).

3. Conclusion

The Commission finds that the revised design, including reduction of the seaward extent of the first and second stories, use of natural materials and colors for the exterior components of the residence, use of non-visually obtrusive materials for the first floor deck railing, the requirement that the height of the first story not exceed the maximum height of the existing house, the requirement of a deed restriction prohibiting additional development in the viewshed in the future, and appropriately-scaled native landscaping will adequately protect the special scenic resource of Black’s Point, consistent with the provisions of the LCP.

³ This will entail a reduction in the seaward extent of the second story by approximately 60 feet.

⁴ Such design measures can help avoid the perception of a looming or overly massive structure in the viewshed and make the structure appear smaller.



C. Natural Hazards

1. Applicable Policies

The LCP has multiple provisions that require development to be sited and designed to ensure long-term stability and to ensure that construction activities and post-construction drainage on a site do not contribute to erosion. Applicable LCP policies and IP sections include:

LCP Policy 6.1.5: Location of New Development Away From Potentially Hazardous Areas. Require the location and/or clustering of development away from potentially hazardous areas where feasible and condition development permits based on the recommendations of the site's Hazard Assessment or other technical reports.

LCP Policy 6.2.10: Site Development to Minimize Hazards. Require all developments to be sited and designed to avoid or minimize hazards as determined by the geologic hazards assessment or geologic and engineering investigations.

LCP Policy 6.2.11: Geologic Hazards Assessment in Coastal Hazard Areas. Require a geologic hazards assessment or full geologic report for all development activities within coastal hazard areas, including all development activity within 100-feet of a coastal bluff. Other technical reports may be required if significant potential hazards are identified by the hazards assessment.

LCP Policy 6.2.12: Setbacks from Coastal Bluffs. All development activities, including those which are cantilevered, and non-habitable structures for which a building permit is required, shall be set back a minimum of 25 feet from the top edge of the bluff. A setback greater than 25 feet may be required based on conditions on and adjoining the site. The setback shall be sufficient to provide a stable building site over the 100-year lifetime of the structure, as determined through geologic and/or soil engineering reports. The determination of the minimum 100 year setback shall be based on the existing site conditions and shall not take into consideration the effect of any proposed shoreline or coastal bluff protection measures.

LCP Policy 6.2.15: New Development on Existing Lots of Record. Allow development activities in areas subject to storm wave inundation or beach or bluff erosion on existing lots of record, within existing developed neighborhoods, under the following circumstances: (a) A technical report (including a geologic hazards assessment, engineering, geology report and/or soil engineering report) demonstrates that the potential hazard can be mitigated over the 100-year lifetime of the structure. Mitigations can include, but are not limited to, building setbacks, elevation of the structure, and foundation design; (b) Mitigation of the potential hazard is not dependent on shoreline or coastal bluff protection structures, except on lots where both adjacent parcels are already similarly protected; and (c) The owner records a Declaration of Geologic Hazards on the property deed that describes the potential hazard and the level of geologic and/or geotechnical investigation conducted.

LCP Policy 6.2.19 Drainage and Landscape Plans: Require drainage and landscape plans



recognizing potential hazards on and off site to be approved by the County Geologist prior to the approval of development in the coastal hazard areas. Require that approved drainage and landscape development not contribute to offsite impacts and that the defined storm drain system or Best Management Practices be utilized where feasible. The applicant shall be responsible for the costs of repairing and/or restoring any off-site impacts.

LCP Policy 6.4.3: Development on or Adjacent to Coastal Bluffs and Beaches. Allow development in areas immediately adjacent to coastal bluffs and beaches only if a geologist determines that wave action, storm swell and tsunami inundation are not a hazard to the proposed development or that such hazard can be adequately mitigated. Such determination shall be made by the County Geologist, or a certified engineering geologist may conduct this review at applicant's choice and expense.

LCP Policy 6.3.3: Abatement of Grading and Drainage Problems. Require, as a condition of development approval, abatement of any grading or drainage condition on the property which gives rise to existing or potential erosion problems.

LCP Policy 6.3.8: On-Site Sediment Containment. Require containment of all sediment on the site during construction and require drainage improvements for the completed development that will provide runoff control, including onsite retention or detention where downstream drainage facilities have limited capacity. Runoff control systems or Best Management Practices shall be adequate to prevent any significant increase in site runoff over pre-existing volumes and velocities and to maximize on-site collection of non-point source pollutants.

Implementation Plan Section 16.10.010(h)(1) (in relevant part): Coastal Bluffs and Beaches.

1. Criteria in Areas Subject to Coastal Bluff Erosion: Projects in areas subject to coastal bluff erosion shall meet the following criteria: (i) for all development and for non-habitable structures, demonstration of the stability of the site, in its current, pre-development application condition, for a minimum of 100 years as determined by either a geologic hazards assessment or a full geologic report. (ii) for all development, including that which is cantilevered, and for non-habitable structures, a minimum setback shall be established at least 25 feet from the top edge of the coastal bluff, or alternatively, the distance necessary to provide a stable building site over a 100-year lifetime of the structure, whichever is greater. (iii) the determination of the minimum setback shall be based on the existing site conditions and shall not take into consideration the effect of any proposed protection measures, such as shoreline protection structures, retaining walls, or deep piers... (vi) The developer and/or the subdivider of a parcel or parcels in an area subject to geologic hazards shall be required, as a condition of development approval and building permit approval, to record a Declaration of Geologic Hazards with the County Recorder. The Declaration shall include a description of the hazards on the parcel and the level of geologic and/or geotechnical investigation conducted. (vii) approval of drainage and landscape plans for the site by the County Geologist...

In sum, the LCP, like the Coastal Act, is premised on hazard avoidance and explicitly defines a 100-year structure lifetime, requiring that development be sited and designed to ensure a minimum of 100 years



of stability without shoreline armoring, including through application of at least 25-foot bluff-top setbacks.

2. Analysis

The proposed project is located on the bluff top at Black's Point. Sea caves exist on both sides of the Point and are located below the existing residence (see page 1 of Exhibit B and page 2 of Exhibit C). The sea cave located on the downcoast side of the Point (and extending onto an adjacent property) was filled with concrete pursuant to an emergency permit (CDP 3-90-112-G) issued in 1990 to the previous property owner. A follow-up CDP authorizing the work completed under the emergency permit was never obtained. As a result, the existing sea cave plug is not permitted. The Applicants have indicated a willingness to remedy this situation as part of this application.

The existing residence on the site extends over the filled sea cave. Thus, without the 1990-era concrete fill, the existing residence would be imminently threatened by a potential sea cave collapse. In other words, the existing residence, which is a residence that predates coastal permitting requirements, is in danger from erosion as that term is understood in a Coastal Act context. There is inadequate inland space within which to relocate the existing structure and it appears that the only feasible alternative in this case is shoreline armoring (i.e. the sea plug). Therefore the filling of the sea cave with concrete is consistent with the LCP and Coastal Act policies that allow shoreline armoring to protect an existing structure.

The sea cave plug is in an inaccessible beach area, and thus it does not directly affect public beach access. It is also located in an isolated cove that is generally not visible to the public except for views from the downcoast rock shelf, which provides some public access via a path between existing residential development and some limited views of the plugged sea cave (see page 2 of Exhibit C). Although visual mitigation (i.e. contoured stained concrete to mimic natural bluff landforms) would minimize public view impacts, the limited nature of the public view in question renders such mitigation excessive. Thus, the sea cave plug has minimal direct impacts to public beach access and views at this location. The sea cave plug, however, has reduced the amount of sand supplied to the local littoral system by eliminating erosion of the bluff in this location. This reduction in sand supply, although relatively small in volume, could result in minimal impacts to public access along Monterey Bay in general due to the reduced amount of sand available for local beach replenishment. To mitigate for this impact, the Applicants have agreed to pay a \$10,000 in-lieu fee to State Parks for public improvements (e.g., benches, tables, trail improvements, etc.) at adjacent Twin Lakes State Beach (see Special Condition 7).

The proposed residence has been sited about 40 feet from the top edge of the coastal bluff on the upcoast side, and about 25 feet from the edge of the coastal bluff on the downcoast side, which translates to a 10-foot and zero-foot setback from the inland extent of the underlying sea caves, respectively (see Exhibit B for proposed project plans). The proposed deck that would wrap around the residence extends the development an additional 20 feet closer to the bluff edges and over the sea caves (which translates to 20-foot and 5-foot bluff-top setbacks respectively). The proposed project also includes an excavated



basement (including a wine cellar) about 15 feet from the upcoast sea cave, and related residential development (e.g., planters, steps, paths, etc.) even closer to the caves and the bluff-top edge. The proposed residence would be sited about 20 feet (and the deck about 40 feet) farther seaward than the existing residence.

The LCP requires that development be sited to ensure long-term stability, including at a minimum providing a stable building site over a minimum 100-year period, with the minimum bluff-top setback equaling no less than 25 feet (see specifically LCP Policy 6.2.12 and IP Section 16.10.010(h)(1)). Per the LCP, new development must also avoid the need for shoreline armoring with its attendant impacts (LCP Policy 6.2.15(b)).

The Applicants have provided geotechnical information regarding the adequacy of the bluff-top setbacks in light of the sea cave that is forming under the upcoast side of the project site (see Exhibit G). This information shows that the cave has not changed appreciably in width or depth since 1990 when the cave was first mapped, nor since it was mapped again in 2001. The width at the back of the cave in December 2007 was 42 feet, essentially the same width as in 1990. The extremely slow rate of erosion and growth of the cave, in terms of both its depth and its width, is hypothesized to be because the cave is fully filled with sand during most of the year, which prevents waves from attacking and eroding the cave walls and roof. This condition results in a reduced erosion rate in the sea cave in comparison to exposed bluffs in the area. In addition, the Applicants' structural engineers have evaluated the amount of lateral erosion that could be tolerated by the arch comprising the cave's roof before its structural integrity would be compromised. Using two separate cross sections, they determined that a minimum of eight feet of lateral erosion could be accommodated before compromising the compressional arch supporting the cave. Given the demonstrated minimal widening of the cave over the past 18 years, it is unlikely that it would widen to this extent over the next 100 years. Given that the data show that the sea cave has neither widened nor deepened measurably over the past 17 years, the Applicants' geotechnical experts conclude that the sea cave will not reach the location of the proposed house within the next 100 years and that the setbacks to the residence are sufficient to provide a stable building site over the 100-year lifetime of the structure, including the basement wine cellar, consistent with the requirements of the Santa Cruz County LCP.⁵ However, the proposed deck that would wrap around the residence does not meet the LCP's required minimum 25-foot/100-year setback standard because it is located seaward of the required minimum 25-foot setback and the 100-year stability setback. Special Condition 1 requires elimination of this deck. Given that the main residential component of the project (not including the wraparound deck) has been designed to meet the LCP's 100-year setback requirement, and is therefore not expected to require the construction of a shoreline protection device or bluff retaining structure(s) during the 100-year life of the development, Special Condition 9 prohibits future construction of a seawall, shoreline protection device, bluff retaining wall, or similar structures. Also, given the project's location on a bluff-top area that is subject to extreme coastal hazards, Special Condition 8 requires that the Applicants assume all risks for developing at this location.

⁵ The Commission's staff engineer and staff geologist concur with the analysis provided by the Applicants' geotechnical experts regarding the western sea cave.



Finally, in terms of drainage, under existing conditions surface water flows over the bluff top by sheet flow, accelerating erosion of the terrace deposits and contributing to coastal bluff top recession. As it is not feasible to collect all roof and surface water and direct it to the storm drains beneath the street, the proposed site drainage improvements (described in Exhibit H) will collect all roof water in closed pipes as well as side yard water in a landscape storm drainage system and carry it to the southwest edge of the terrace bluff where it will be discharged through two percolation trench basins and then allowed to disperse evenly across a landscaped buffer zone 25 feet from the top edge of the bluff and onto the broad bedrock platform that exists below the terrace deposit materials and beyond adjacent beaches. The two percolation trench basins will be 9 feet long, 2 feet wide, and 18 inches deep. The bottom 6 inches of the trench basins will be filled with angular drain rock wrapped in filter fabric to prevent fine sediments from clogging the system. The drainage pipe and the trench basins will be situated below grade 25 feet back from the southwest bluff top edge and will not be visible. The Commission's staff geologist reviewed the written drainage plan and determined that allowing percolation of stormwater through the trenches 25 feet from the bluff edge is a reasonable way to handle runoff in this area because the water will percolate well into the terrace deposits that make up the bluff top, and it is unlikely that this subsurface water would perch on an impermeable bluff surface and cause erosion problems. The Commission's staff geologist also stated that the location of the trenches will prevent stormwater from running down the surface of the bluff, which is much more problematic in terms of erosion than subsurface percolation in terrace deposits. Thus the proposed project is consistent with the LCP's policies regarding drainage and hazard avoidance related to drainage. Special condition 1 requires submission of drainage site plans that conform to the requirements of the written drainage plan in Exhibit H. To ensure consistency with LCP Policies regarding containment of all sediment on site during construction, Special Condition 2 requires implementation of a series of construction best management practices.

3. Conclusion

The main components of the proposed house (excluding the wraparound deck) are set back adequately to meet the 100-year setback requirement of the LCP. The proposed drainage plan will reduce erosion on the site by preventing sheet flow of runoff over the bluff edge. This approval is conditioned to require elimination of the wraparound deck that does not meet the LCP's 100-year setback requirement. Additional conditions require implementation of a series of best management practices during construction to contain all sediment onsite and protect water quality, to prohibit the construction of any shoreline protection device for the life of the project, and to require the Applicants to assume all risks for developing at this location. This approval is also conditioned to require an in-lieu fee for public access improvements to adjacent Twin Lakes State Beach. With these conditions, the project is consistent with the natural hazards policies of the certified LCP.

D. Public Access and Recreation

1. Applicable Policies

Coastal Act Section 30604(c) requires that every coastal development permit issued for any



development between the nearest public road and the sea “shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3.” The proposed project is located seaward of the first through public road and thus such a finding is required. Coastal Act Sections 30210 through 30213 and 30221 specifically protect public access and recreation. In particular:

***30210.** In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

***30211.** Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

***30213.** Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...*

***30221.** Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

Coastal Act Section 30240(b) also protects parks and recreation areas, such as the adjacent beach area. Section 30240(b) states:

***30240(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.*

These overlapping policies protect the beach (and access to and along it) and offshore waters for public access and recreation purposes, including lower-cost access and recreational opportunities.

2. Analysis

The proposed project site is located on the bluff top at Black's Point in the Live Oak area of unincorporated Santa Cruz County. The project site is adjacent to the Black's Point portion of Twin Lakes State Beach. The bluff tops along this area of coast are highly developed with residential structures. This residential development limits public access to the bluff top areas. Although Black's Point has historically attracted thrill seekers who scramble atop the rock shelf at its tip to jump off the sheer cliff into the ocean, such activity is discouraged by State Parks officials. In addition, the site is disconnected from the downcoast rock shelf that is publicly accessible, and the site is not accessible otherwise. As a result, the project site is not suitable or necessary for direct public access (see Exhibit C).



The redevelopment of the project site will not impact the existing public access. Thus, the Commission finds that the project is consistent with the public access and recreation policies of the Coastal Act.

E. Future Notice

The terms and conditions of this approval are meant to be perpetual. In order to inform future owners of the requirements of the permit, and add a level of legal implementation of this fact, this approval is conditioned for a deed restriction designed to record the project conditions against the affected property (See Special Condition 11). In addition, this approval is conditioned to require that any future marketing materials (used in conjunction with future property sales) fully disclose all the terms and conditions of this CDP (see Special Condition 10).

F. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Santa Cruz County, acting as the lead CEQA agency, categorically exempted the project from the provisions of CEQA (pursuant to Section 15303).

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The Commission has reviewed the relevant coastal resource issues with the proposed project, and has identified appropriate and necessary modifications to address adverse impacts to such coastal resources. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

The Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA. As such, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects that approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. If so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

