CALIFORNIA COASTAL COMMISSION SOUTH CENTRAL COAST AREA 89 SOUTH CALIFORNIA ST., SUITE 200 VENTURA, CA 93001 (805) 585-1800





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STAFF REPORT: REGULAR CALENDAR

Application No.: 4-15-0466

Applicant: Charles W. King, III

Agent: Mark Shields, DesignArc

Project Location: 1821 Fernald Point Lane, Montecito; Santa Barbara County (APN 007-380-014)

Project Description: Major remodel, partial demolition (603 sq. ft.), and additions (1,107 sq. ft.) to an existing 2,911 sq. ft., three-story, single-family beachfront residence with 1,088 sq. ft. attached garage, resulting in a 3,415 sq. ft., three-story, single-family residence with 838 sq. ft. attached garage. The project includes the replacement of an existing 654 sq. ft. groundfloor deck with a new 1,241 sq. ft. ground-floor cantilevered deck, and replacement of 662 sq. ft. of existing mid- and upper-floor decks with a new 451 sq. ft. mid-floor deck. The construction of 10 new concrete caissons with a system of grade beams above is also proposed to support the new ground-floor deck and additions. In addition, the project includes 140 cu. yds. of grading (cut), approximately 70 linear ft. of new retaining walls that vary from 6 to 12 ft. in height, and repairs to approximately 10 existing timber piles that are part of the existing 22-pile and perimeter concrete footing foundation system.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the proposed project with nine (9) Special Conditions regarding (1) Final Revised Plans, (2) Plans Conforming to Geotechnical and Coastal Engineer's Recommendations, (3) No Future Shoreline Protective Device, (4) Assumption of Risk, Waiver of Liability and Indemnity Agreement, (5) Deed Restriction, (6) Sign Restriction, (7) Public Rights, (8) Offer to Dedicate Lateral Public Access, and (9) Interim Erosion Control Plans and Construction Responsibilities. The project is located at 1821 Fernald Point Lane in the Montecito community of Santa Barbara County. Although the Commission has previously certified a Local Coastal Program for the County of Santa Barbara, the project is located within an area, shown on

the County's Post LCP Certification Permit and Appeal Jurisdiction map, where the Commission has retained jurisdiction (historic tidelands) over the issuance of coastal development permits. Thus, the standard of review for this project is the Chapter 3 policies of the Coastal Act, with the applicable policies of the County of Santa Barbara LCP as guidance. As conditioned, the proposed project is consistent with all applicable Chapter 3 policies of the Coastal Act.

The applicant is requesting authorization for significant improvements to an existing 2.911 sq. ft., three-story, 33 ft. high, single-family beachfront residence with 1,088 sq. ft. attached garage that occupies a narrow strip of beach at the base of an approximately 30 ft. tall, south-facing bluff below U.S. Highway 101. The proposed project consists of partial demolition (603 sq. ft. and only 36% of interior and exterior walls removed) and additions (1,107 sq. ft.) to the first and second stories of the residence, resulting in 504 sq. ft. of net additions. The existing third story will not be expanded and only interior wall modifications and exterior facade changes are proposed on that level. The project also includes the replacement of an existing 654 sq. ft. ground-floor deck with a new 1,241 sq. ft. ground-floor cantilevered deck, and replacement of 662 sq. ft. of existing mid- and upper-floor decks with a new 451 sq. ft. mid-floor deck. The construction of 10 new concrete caissons with a system of grade beams above is also proposed to support the new ground-floor deck and additions. In addition, the project includes 140 cu. yds. of grading (cut), approximately 70 linear ft. of new retaining walls that vary from 6 to 12 ft. in height, and repairs to approximately 10 existing timber piles that are part of the existing 22-pile and perimeter concrete footing foundation system. Additionally, during processing of the subject permit application the applicant modified the proposed project to reduce the size of the new ground level cantilevered deck (from 1,570 sq. ft. to 1,241 sq. ft.) in order to ensure that it would not extend further seaward than the existing extent of development on the site. The applicant also modified the location and design of the proposed outdoor stairs between the residence and the beach in order to enhance its adaptive capacity and avoid direct placement on the bluff and beach. All proposed improvements would extend no further seaward than the existing extent of the residential development on the property. While the applicant modified the proposed site plan to depict these project changes, staff recommends Special Condition 1 in order to require the applicant to submit two sets of final revised plans in which all plan sheets reflect the proposed changes.

In order to ensure consistency with the hazard, shoreline processes, and public access policies of the Coastal Act (Sections 30235, 30253, and 30210-30212), a wave run-up and coastal engineering study was submitted that considered coastal hazard risks to the site over the identified economic life of the development in consideration of sea level rise and determined that the development has been designed appropriately to ensure safety and stability without the need for a shoreline protective device. Although the proposed residence has been designed to ensure structural stability relative to wave action and predicted sea level rise to the extent feasible, it is not possible to completely preclude the possibility that conditions on site will change and that the residence could be subject to greater wave action and tidal events in the future. In order to protect shoreline processes, natural landforms, the ambulatory nature of the shoreline, and continued public access to the shoreline, it is necessary to ensure that no shoreline protective device will ever be built to protect the proposed development. Staff recommends that the Commission impose Special Condition 3 (No Future Shoreline Protective Device), which requires the applicant to waive the right to build a new shoreline protective device to protect the

development authorized by this permit and to remove the development if a government agency orders that portions or all of the structures may not be occupied due to hazards or property ownership issues. Staff also recommends that the Commission require Special Condition 8 (Offer to Dedicate Lateral Public Access) to carry out the applicant's offer to dedicate lateral public access along the shoreline, which will help provide adequate public access in the face of potentially rapidly changing conditions relative to sea level rise and the ambulatory nature of the mean high tide line. These special conditions are necessary in order to allow the public trust tidelands to migrate inland over time, and ensure that the home does not impede future public access to or along the shore, thus assuring continued public access and use of coastal areas, as required by the Coastal Act. Further, Section 35-61 of the County's Coastal Zoning Ordinance portion of its LCP (used as guidance in this case) requires that granting of lateral easements to allow for public access along the shoreline shall be mandatory for all new development between the first public road and the ocean. In consideration of this, the applicant has proposed to offer a lateral public access easement in this case as part of the proposed project, along the entire width of the property from the ambulatory mean high tide line landward to the seaward extent of approved development (dripline of the proposed deck).

Scenic public views of the coast and ocean from U.S. Highway 101 exist in the project vicinity. However, the residence is situated at the base of the bluff and at a much lower elevation than Highway 101. As such, bluewater views of the coast and ocean from the highway would not be adversely impacted by the proposed project. In addition, existing mature trees along Fernald Point Lane between the highway and the project site serve to screen the existing beachfront residences and minimize their visibility. And the proposed grading and retaining walls located on the landward side of the residence at the base of the bluff would not be visible from any public viewing areas and would not result in significant alteration of natural landforms. Further, the proposed additions and design changes to the existing residence would not create an inconsistency with the size and scale of the surrounding neighborhood. For these reasons, the proposed project is consistent with the visual resource protection policy (Section 30251) of the Coastal Act. In order to ensure that construction of the proposed project will not significantly impact marine resources and is consistent with marine resource protection policies (Sections 30230 and 30231) of the Coastal Act, staff recommends Special Condition 9 (Interim Erosion Control Plans and Construction Responsibilities) which requires that the project applicant comply with specific construction standards and best management practices.

As conditioned, the proposed project is consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, staff recommends that the Commission approve the proposed project subject to the nine special conditions detailed in Section III of this report.

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APPENDICES

Appendix A. Substantive File Documents

EXHIBITS

Exhibit 1.	Location Map
Exhibit 2.	Parcel Map
Exhibit 3.	Aerial View
Exhibit 4.	Proposed Site Plan
Exhibit 5.	Floor Plans and Cross-sections
Exhibit 6.	Foundation Plan, Memo, and Cross-sections
Exhibit 7.	Grading Plan and Cross-sections

I. MOTION AND RESOLUTION

The staff recommends that the Commission adopt the following resolution:

MOTION: I move that the Commission **approve** Coastal Development Permit No. 4-15-0466 pursuant to the staff recommendation.

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the 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 THE PERMIT:

The Commission hereby approves Coastal Development Permit No. 4-15-0466 for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the 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. 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.

III. SPECIAL CONDITIONS

1. Final Revised Plans

- A. *Prior to issuance of the Coastal Development Permit*, the applicant shall submit, for the review and approval of the Executive Director, two (2) full-size sets of final revised plans that conform with the site plan, ground level plan, and revised project description that was submitted to the Commission on December 14, 2016 and that reflect the revised outdoor deck and staircase design.
- B. All revised plans shall be prepared and certified by a licensed professional or professionals as applicable (e.g., architect, surveyor, geotechnical engineer), based on current information and professional standards, and shall be certified to ensure that they are consistent with the Commission's approval and with the recommendations of any required technical reports as may be specified below.
- C. The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

2. Plans Conforming to Geotechnical and Coastal Engineer's Recommendations

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in all of the coastal engineering and geology, geotechnical, and/or soils reports referenced as Substantive File Documents. These recommendations, including recommendations concerning foundations, construction, grading, and drainage, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultant(s) prior to commencement of development.

The final plans approved by the consultant(s) shall be in substantial conformance with the plans approved by the Commission relative to foundation, construction, grading, drainage, and height of the structure. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant(s) shall require an amendment to this permit or a new Coastal Development Permit.

3. No Future Shoreline Protective Device for Residence

A. By acceptance of this permit, the applicant/landowner agrees, on behalf of himself and all successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to this coastal development permit (No. 4-15-0466) including, but not limited to, the residence, garage, decks, driveway, and stairs in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, bluff retreat, landslides, or other coastal hazards in the future, and as may be exacerbated by sea level rise. By acceptance of this permit, the applicant

hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under applicable law.

B. By acceptance of this permit, the applicant further agrees, on behalf of himself and all successors and assigns, that the landowner shall remove the development authorized by this permit including, but not limited to, the residence, garage, decks, and driveway/patios, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above, or if any public agency requires the structures to be removed. If any portion of the development at any time encroaches onto public property, the permittee shall either remove the encroaching portion of the development or apply for a coastal development permit to retain it. Any permit application to retain it must include proof of permission from the owner of the public property. The permittee shall obtain a coastal development permit for removal of approved development unless the Executive Director determines that no permit is legally required. If any portion of the development falls to the beach before it is removed, the landowner 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. Such removal shall require a coastal development permit unless the Executive Director determines that no permit is legally required.

4. Assumption of Risk, Waiver of Liability and Indemnity Agreement

By acceptance of this permit, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns:

- (a) Coastal Hazards: That the site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunami, tidal scour, coastal flooding, and the interaction of same, many of which will worsen with future sea level rise;
- (b) Assume Risks: To assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such coastal hazards in connection with this permitted development;
- (c) Waive Liability: To unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such coastal hazards;
- (d) Indemnification: 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 coastal hazards;
- (e) Permit Intent: The intent of this permit is to allow for the approved project to be constructed and used consistent with the terms and conditions of this permit for only as long as it remains safe for occupancy and use without additional substantive measures beyond ordinary repair and/or maintenance to protect it from coastal hazards, and for only as long as the approved project remains on private property;

- (f) Disclosure: 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 of the terms and conditions of this Coastal Development Permit; and
- (g) Property Owner Responsible: That any adverse effects to property caused by the permitted project shall be fully the responsibility of the property owner.

5. Deed Restriction

Prior to issuance of the Coastal Development Permit, the applicant shall submit to the Executive Director for review and written approval documentation demonstrating that the landowner has executed and recorded 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 (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant's entire parcel or parcels. 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.

6. Sign Restriction

No signs shall be posted on the property subject to this permit that (a) explicitly or implicitly indicate that the portion of the beach located adjacent to the subject site is private or otherwise not open to the public or (b) contain similar messages that attempt to prohibit public use of this portion of the beach. In no instance shall signs be posted which read "*Private Beach*" or "*Private Property*." Prior to posting, the permittee/landowner shall submit the content of any proposed signs to the Executive Director for review and approval.

7. Public Rights

- A. The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that may exist on the property. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property now or in the future.
- B. This permit does not authorize the development to physically interfere with any public access rights that may exist at any future date.

8. Offer to Dedicate Lateral Public Access

A. *Prior to issuance of the Coastal Development Permit*, and in order to implement the applicant's proposal, the applicant shall execute and record a document in a form and content acceptable to the Executive Director irrevocably offering to dedicate to a public agency or private entity, approved by the Executive Director, a public access easement for public access and recreational uses in accordance with the terms of the Project Description as proposed by the applicant on the proposed site plan (Sheet A2) dated 12/14/16. The easement shall be for lateral public access and passive recreational use along the shoreline and shall be located along the entire width of the property from the ambulatory mean high tide line landward to the dripline of the approved deck.

The recorded document(s) shall include a legal description and corresponding graphic depiction of the legal parcel(s) subject to this permit and a metes and bounds legal description and a corresponding graphic depiction, drawn to scale, of the easement area prepared by a licensed surveyor based on an on-site inspection of the easement or dedicated area. No development shall occur within the above-identified easement.

- B. The irrevocable offer to dedicate shall be recorded free of prior liens and any other encumbrances that the Executive Director determines may affect the interest being conveyed. The document shall provide that the offer of dedication shall not be used or construed to allow anyone to interfere with any rights of public access acquired through use which may exist on the property.
- C. The offer of dedication shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowner in perpetuity and shall be irrevocable for a period of 21 years, such period running from the date of recording, and indicate that the restrictions on the use of the land shall be in effect upon recording and remain as covenants, conditions and restrictions running with the land in perpetuity, notwithstanding any revocation of the offer.

9. Interim Erosion Control Plans and Construction Responsibilities

- A. *Prior to issuance of the Coastal Development Permit*, the applicant shall submit to the Executive Director an Interim Erosion Control and Construction Best Management Practices Plan, prepared by a qualified, licensed professional. The qualified, licensed professional shall certify in writing that the Interim Erosion Control and Construction Best Management Practices (BMPs) plan is in conformance with the following requirements:
 - 1. Erosion Control Plan
 - (a) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the plan and on-site with fencing or survey flags.

- (b) Include a narrative report describing all temporary run-off and erosion control measures to be used during construction.
- (c) The plan shall identify and delineate on a site or grading plan the locations of all temporary erosion control measures.
- (d) The plan shall specify that grading shall take place only during the dry season (April 15 October 15). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director. The applicant shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible. Basins shall be sized to handle not less than a 10 year, 6 hour duration rainfall intensity event.
- (e) The erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.
- (f) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.
- (g) All temporary, construction related erosion control materials shall be comprised of bio-degradable materials (natural fiber, not photodegradable plastics) and must be removed when permanent erosion control measures are in place. Bio-degradable erosion control materials may be left in place if they have been incorporated into the permanent landscaping design.
- 2. Construction Best Management Practices
 - (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.

- (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
- (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
- (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- (f) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- (g) Debris shall be disposed of at a permitted disposal site or recycled at a permitted recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
- (h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- (i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- (j) The discharge of any hazardous materials into any receiving waters shall be prohibited.
- (k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity

- (m)All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
- B. The final Interim Erosion Control and Construction Best Management Practices Plan shall be in conformance with the site/ development plans approved by the Coastal Commission. Any necessary changes to the Coastal Commission approved site/development plans required by a qualified, licensed professional shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The applicant is requesting authorization for a major remodel, partial demolition (603 sq. ft.), and additions (1,107 sq. ft.) to an existing 2,911 sq. ft., three-story, 33 ft. high, single-family beachfront residence with 1,088 sq. ft. attached garage, resulting in a 3,415 sq. ft., three-story, single-family residence with 838 sq. ft. attached garage (**Exhibits 4-7**). The proposed project consists of partial demolition (603 sq. ft. and only 36% of interior and exterior walls removed) and additions (1,107 sq. ft.) to the first and second stories of the residence, resulting in 504 sq. ft. of net additions. The existing third story will not be expanded and only interior wall modifications and exterior façade changes are proposed on that level.

The project also includes the replacement of an existing 654 sq. ft. ground-floor deck with a new 1,241 sq. ft. ground-floor cantilevered deck, and replacement of 662 sq. ft. of existing mid- and upper-floor decks with a new 451 sq. ft. mid-floor deck. The construction of 10 new concrete caissons with a system of grade beams above is also proposed to support the new ground-floor deck and additions. In addition, the project includes 140 cu. yds. of grading (cut), approximately 70 linear ft. of new retaining walls that vary 6 to 12 ft. in height, and repairs to approximately 10 existing timber piles that are part of the existing 22-pile and perimeter concrete footing foundation system. Additionally, during processing of the subject permit application the applicant modified the proposed project to reduce the size of the new ground level cantilevered deck (from 1,570 sq. ft. to 1,241 sq. ft.) in order to ensure that it would not extend further seaward than the existing extent of development on the site. The applicant also modified the location and design of the proposed outdoor stairs between the residence and the beach in order to enhance its adaptive capacity and avoid direct placement on the bluff and beach. All proposed improvements would extend no further seaward than the existing extent of the residential development on the property. The applicant also proposes to offer a lateral public access easement between the ambulatory mean high tide line and the seaward extent of approved development (dripline of deck) as part of the proposed project.

The proposed project is located on a 0.29-acre beachfront property between the Union Pacific Railroad (UPRR) right-of-way and the Pacific Ocean in the Montecito community of unincorporated Santa Barbara County (**Exhibits 1-3**). The existing single-family residence on the property was originally developed in 1973. The property is among a uniquely-situated group of lots at the far eastern end of Fernald Point Lane that occupy a narrow strip of beach at the base of an approximately 30 ft. tall, south-facing bluff below U.S. Highway 101 and the UPRR tracks. A paved driveway that extends east from Fernald Point Lane provides access to the residence. Since the driveway is situated at the top of the bluff and the residence is situated at the base of the bluff, a pile-supported wooden bridge deck with an approximately 20 ft. span provides connection between the driveway and the upper-most floor of the residence where the garage is located. In addition, there is an existing outdoor staircase on the west side of the residence that extends down the bluff face between the driveway and residence ground-level.

Commission permit records indicate that a temporary rock revetment was approved on the subject property on May 13, 1981 pursuant to Emergency CDP No. 314-26 in order to protect the existing residence from damage as a result of extreme wave action during high tides. The Emergency CDP required that the temporary revetment be removed within 90 days of permit issuance, unless permanent retention of the revetment was sought through the application of a regular CDP. Based on the limited information that is contained within the 1981 emergency permit file, it appears that permanent authorization of the temporary revetment was never obtained and the revetment became damaged and was removed in approximately 1986.

Although the Commission has previously certified a Local Coastal Program for the County of Santa Barbara, the project is located within an area shown on the County's Post LCP Certification Permit and Appeal Jurisdiction map where the Commission has retained jurisdiction (historic tidelands) over the issuance of coastal development permits. Thus, the standard of review for this project is the Chapter 3 policies of the Coastal Act, with the applicable policies of the County of Santa Barbara LCP as guidance.

B. HAZARDS AND SHORELINE PROCESSES

Section 30253 of the Coastal Act, which is also incorporated as part of the Santa Barbara County LCP, states, in part, that new development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Section 30235 of the Coastal Act, which is also incorporated as part of the Santa Barbara County LCP, states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from

erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

In addition, the Santa Barbara County LCP includes the following applicable provisions:

LUP Policy 3-1:

Seawalls shall not be permitted unless the County has determined that there are no other less environmentally damaging alternatives reasonably available for protection of existing principal structures. The County prefers and encourages non-structural solutions to shoreline erosion problems, including beach replenishment, removal of endangered structures and prevention of land divisions on shorefront property subject to erosion; and, will seek solutions to shoreline hazards on a larger geographic basis than a single lot circumstance. Where permitted, seawall design and construction shall respect to the degree possible natural landforms. Adequate provision for lateral beach access shall be made and the project shall be designed to minimize visual impacts by the use of appropriate colors and materials.

LUP Policy 3-3:

To avoid the need for future protective devices that could impact sand movement and supply, no permanent above-ground structures shall be permitted on the dry sandy beach except facilities necessary for public health and safety, such as lifeguard towers, or where such restriction would cause the inverse condemnation of the parcel by the County.

LUP Policy 3-8:

Applications for grading and building permits, and applications for subdivision shall be reviewed for adjacency to, threats from, and impacts on geologic hazards arising from seismic events, tsunami runup, landslides, beach erosion, or other geologic hazards such as expansive soils and subsidence areas. In areas of known geologic hazards, a geologic report shall be required. Mitigation measures shall be required where necessary.

LUP Policy 3-14:

All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.

Section 30253 of the Coastal Act mandates that new development minimize risks to life and property in areas of high geologic and flood hazard, and not create or contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. In addition, Coastal Act Section 30235 specifically provides that shoreline protective devices must be permitted when both of the following two criteria are met: (1) the device is required to serve coastal-dependent uses or to protect existing structures or public beaches if these areas/structures are in danger from erosion and (2) the device is designed to eliminate or mitigate adverse impacts on local shoreline sand supply. However, they are not allowed if they are either unnecessary to protect existing development or inconsistent with LCP

and/or Coastal Act policies to protect coastal resources, including natural shoreline processes, public access to and along the sea, and views. In addition, Policy 3-1 of the County's LCP prohibits the construction of shoreline protective devices unless it is determined necessary to protect existing principal structures when there is no other less environmentally damaging alternative reasonably available. Policy 3-3 of the County's LCP prohibits permanent above-ground structures on the dry sandy beach in order to avoid the need for future protective devices that could impact sand movement and supply, with the exception of facilities necessary for public health and safety, such as lifeguard towers, or where such restriction would cause the inverse condemnation of the parcel by the County.

The proposed project consists of a major remodel, partial demolition, and additions to an existing single-family residence located on a small beachfront property in the Montecito community of unincorporated Santa Barbara County. The project also includes deck and foundation system improvements. The existing single-family residence on the property was originally developed in 1973. The property is among a uniquely-situated group of lots at the far eastern end of Fernald Point Lane and that occupy a narrow strip of beach at the base of a bluff.

The proposed project is located within a developed coastal area that has historically been subject to risk associated with wave action during storm conditions and high tides. Shoreline protective devices have been authorized by the Commission to protect existing development in the vicinity of the subject site. In addition, a temporary rock revetment was approved on the subject property on May 13, 1981 pursuant to Emergency CDP No. 314-26 in order to protect the existing residence from damage as a result of extreme wave action during high tides. The Emergency CDP required that the temporary revetment be removed within 90 days of permit issuance, unless permanent retention of the revetment was sought through the application of a regular CDP. Based on the limited information that is contained within the 1981emergency permit file, it appears that permanent authorization of the temporary revetment was never obtained and the revetment became damaged and was removed in approximately 1986.

In this case, the proposed project consists of a substantial remodel of the existing beachfront residence and any new development must conform with the policies and standards of the Coastal Act (with the Santa Barbara LCP serving as guidance). Consistent with Coastal Act Section 30235, shoreline protective devices are allowed when necessary to protect existing development and when designed to avoid and minimize adverse impacts to coastal resources. However, they are not allowed where, as is the case here, they are either unnecessary to protect existing development or inconsistent with Coastal Act and/or LCP policies to protect coastal resources, including natural shoreline processes, public access to and along the sea, and views. Further, pursuant to Coastal Act Section 30253, new development may not rely on construction of shoreline protective devices to ensure the structure's stability.

Impacts from Shoreline Armoring

Shoreline protective devices, by their very nature, tend to conflict with various LCP and Chapter 3 policies because shoreline structures can have a variety of adverse impacts on coastal resources, including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach.

Shoreline protection devices also directly interfere with public access to tidelands by impeding the ambulatory nature of the boundary between public and private lands. The impact of a shoreline protective device on public access is most evident on a beach where wave run-up and the mean high tide line are frequently observed in an extreme landward position during storm events and the winter season. As the shoreline retreats landward due to the natural process of erosion, the boundary between public and private land also retreats landward. Construction of rock revetments and seawalls to protect private property prevents any current or future migration of the shoreline landward, thus eliminating the distance between the high water mark and low water mark. As the distance between the high water mark and low water mark becomes smaller, the seawall effectively eliminates lateral access opportunities along the beach as the entire area below the fixed high tideline is inundated. The ultimate result of a fixed tideline boundary (which would otherwise normally migrate and retreat landward, while maintaining a passable distance between the high water mark over time) is a reduction or elimination of the area of sandy beach available for public access and recreation.

Interference by shoreline protective devices can result in a number of adverse effects on the dynamic shoreline system and the public's ability to access the beach. First, changes in the shoreline profile, particularly changes in the slope of the profile which results from a reduced beach berm width, alter the usable beach area. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This narrows the beach area available for public access. The second effect on access is through a progressive loss of sand as shore material is not available to nourish the nearshore sand bar. The lack of an effective bar can allow such high wave energy on the shoreline that material may be lost far offshore where it is no longer available to nourish the beach. This affects public access again through a loss of beach area. Third, shoreline protective devices such as revetments and bulkheads cumulatively affect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline and they reach a public beach. In addition, if a seasonal eroded beach condition occurs with greater frequency due to the placement of a shoreline protective device on the subject site, then the subject beach would also accrete at a slower rate. Fourth, if not sited landward in a location that ensures that the seawall is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave's energy.

Sea Level Rise

In addition, sea level has been rising slightly for many years. As an example, in the Santa Monica Bay area, the historic rate of sea level rise, based on tide gauge records, has been 1.8 mm/yr. or about 7 inches per century¹. Recent satellite measurements have detected global sea level rise from 1993 to present of 3 mm/yr or a significant increase above the historic trend observed from tide gauges. Recent observations of sea level along parts of the California coast have shown some anomalous trends; however, there is a growing body of evidence that sea level

¹ Lyles, S.D., L.E. Hickman and H.A. Debaugh (1988) *Sea Level Variations for the United States 1855 – 1986.* Rockville, MD: National Ocean Service.

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is rising throughout much of the eastern Pacific². Sea level rise is expected to increase significantly throughout the 21st century. The National Research Council (NRC) report, *Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past Present and Future* indicates that sea level rise of 1.5 to 5.5 ft. could occur by the year 2100³. The NRC report was adopted by the Ocean Protection Council and recognized by the Coastal Commission through adoption of its Sea Level Rise Policy Guidance as the current best available science on sea level rise in California. However, although this represents the best current estimate of sea level rise, there is uncertainty in sea level rise science, particularly regarding ice-sheet dynamics and future greenhouse gas emissions. In particular, it is possible that future research will conclude that sea levels will rise at an even more accelerated rate than currently predicted, resulting both in earlier impacts to coastal sites as well as more significant impacts over time.

On the California coast the effect of a rise in sea level will be the landward migration of the intersection of the ocean with the shore. On a relatively flat beach, with a slope of 40:1, a simple geometric model of the coast indicated that every centimeter of sea level rise will result in a 40 cm. landward movement of the ocean/beach interface. For fixed structures on the shoreline, such as a seawall, an increase in sea level will increase the inundation of the beach and eventually the structure. More of the structure will be inundated or underwater than is inundated now and the portions of the structure that are now underwater part of the time will be underwater more frequently.

Accompanying this rise in sea level will be an increase in wave heights, wave energy and wave run-up. Along much of the California coast, the bottom depth controls the nearshore wave heights, with bigger waves occurring in deeper water. Since wave energy increases with the square of the wave height, a small increase in wave height can cause a significant increase in wave energy and wave damage. Combined with the physical increase in water elevation, a small rise in sea level can expose previously protected back shore development to increased wave action, and those areas that are already exposed to wave action will be exposed more frequently, with higher wave forces and wave run-up. Structures that are adequate for current storm conditions may not provide as much protection in the future.

Shoreline Protection at the Subject Site

Pursuant to Coastal Act Sections 30235 and 30253, new development or redevelopment on the site must be designed appropriately to ensure geologic and engineering stability without the need for a shoreline protective device. In this case, the applicant has submitted a wave run-up study and coastal engineering analysis for the proposed project that considers flooding and erosion risks to the site over the expected economic life of the development, assuming long-term shoreline change and a seasonally eroded beach, a 100-year storm event occurring during high tide, without the existing shoreline protection, and under a range of sea level rise conditions. According to the National Oceanographic and Atmospheric (NOAA) National Ocean Survey tidal data, the Mean High Water (MHW) level is +4.5 ft. NAVD88 and the maximum observed

 ² Hamington, B.F., S.H. Cheon, P.R. Thompson, M.S. Merrifield, T.S. Nerem, R.R. Leben and K.-Y. Kim (2016) An Ongoing Shift in Pacific Ocean Sea Level. Journal of Geophysical Research, Oveansfoi> 10.1002/2016FC011815.
³ National Research Council (NRC). 2012. Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future.

³ National Research Council (NRC). 2012. Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future. Report by the Committee on Sea Level Rise in California, Oregon, and Washington. National Academies Press, Washington, DC. 250 pp. http://www.nap.edu/catalog/13389/sea-level-rise-for-the-coasts-of-california-oregonand-washington.

water level is about +8.1 ft. NAVD88 in the location of the subject site. The existing residence (+14.5 ft. NAVD88 foundation elevation; +16.2 finished floor elevation) is approximately 100 ft. landward and 10 ft. higher in elevation than the Mean High Water level currently existing at the site. The proposed residential improvements would not extend any further seaward, nor lower in elevation, than the existing residential development on the property. The submitted analysis also indicates that the shoreline in this area has been relatively stable in the long-term, as evidenced by regional historical data⁴. However, in consideration of a potential scenario of 4.75 feet of sea level rise based on the high scenario identified in the California Coastal Commission's Sea Level Rise Policy Guidance document⁵, along with the highest recorded tide in history (8.1 feet NAVD88) and wave action associated with a 100 year storm, it is projected that the MHW level and entire profile of the sandy beach in this area will shift landward by about 45 to 47 feet and the maximum wave runup is projected to reach approximately +14.5 NAVD88.

Given the proposed project in relation to this projection, the wave run-up analysis determined that the design elevation of the lowest member of the structure will likely not be acted upon by wave action in a manner that would result in structural damage for the expected life of the residence (typically 75 years). The applicant's coastal engineering and geotechnical consultants also concluded that the proposed development was adequate from a geologic and engineering standpoint and would not contribute significantly to erosion or geologic instability on the site or adjacent areas. In order to ensure the recommendations of the applicant's consultants are incorporated into the final project plans to ensure geologic and engineering safety and stability, Special Condition Two (2) requires the applicant to incorporate all recommendations contained in the applicable geotechnical, soils, and coastal engineering reports submitted for the project into the final design and construction plans for the project. Additionally, during processing of the subject permit application the applicant modified the proposed project to reduce the size of the new ground level cantilevered deck in order to ensure that it would not extend further seaward than the existing extent of development on the site. The applicant also modified the location and design of the proposed outdoor stairs between the residence and the beach in order to enhance its adaptive capacity and avoid direct placement on the bluff and beach. While the applicant modified the proposed site plan to depict these project changes, Special Condition One (1) is necessary in order to require the applicant to submit two sets of final revised plans in which all plan sheets reflect the proposed changes.

As described above, new development on beachfront parcels should be designed in a manner that will not require the construction or use of shoreline protective devices that would alter natural landforms or shoreline processes. Construction of a shoreline protective device to protect the proposed development would arrest the landward migration of the shoreline, and the corresponding migration of the publicly accessible intertidal zone. This would effectively take public trust property that should be available for Coastal Act-priority uses—including access to and along the sea—and leave it in private hands. Courts have also found that shoreline armoring can constitute trespass on public tidelands. *United States v. Milner* (9th Cir. 2009) 583 F.3d 1174, 1189-1190. Therefore, in order to protect shoreline processes, natural landforms, the

⁴ U.S. Geological Survey (Open File Report 2006-1219) National Assessment of Shoreline Change Part 3: Historical Shoreline Change and Associated Coastal Land Loss Along Sandy Shorelines of the California Coast.

⁵ National Research Council's 2012 report on Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future.

ambulatory nature of the shoreline, and continued public access to the shoreline, the Commission finds that it is necessary to ensure that no shoreline protective device will ever be built to protect the proposed development. As such, **Special Condition Three (3)** requires the applicant to waive the right to build a new shoreline protective device to protect new development authorized by this Coastal Development Permit. Furthermore, the shoreline is a dynamic environment and although the proposed remodeled residence has been designed to ensure structural stability relative to wave action and forecasted sea level rise to the extent feasible, it is not possible to completely preclude the possibility that conditions on site will change and that the residence could be subject to greater wave action and tidal events in the future. To address the possibility that the structure may not be constructed in a manner adequate to ensure structural stability relative to increased future wave action, sea level rise, and tidal events, Special Condition Three (3) has been required to further ensure that no future shoreline protective device will be constructed on site to protect the proposed development and to require the landowner to remove the development if a government agency orders that portions or all of the structures may not be occupied due to hazards or property ownership issues identified in this report.

Additionally, **Special Condition Seven** (7) clarifies that the Commission's approval of this permit does not constitute a waiver of any public rights that may exist on the property and prohibits the applicant from using the permit as evidence of a waiver of any public rights that may exist on the property now or in the future. Special Condition 7 also clarifies that the permit does not authorize the development to physically interfere with any public access rights that may exist at any future date.

Moreover, the proposed development is located along the shoreline in Santa Barbara County that has historically been subject to damage as the result of significant storm and wave events. Thus, ample evidence exists that all beachfront areas in the Santa Barbara County area are subject to an unusually high degree of risk due to storm waves and surges, high surf conditions, erosion, and flooding. The subject site, even after the completion of the proposed project, will continue to be subject to the high degree of risk posed by the hazards of oceanfront development in the future. The Coastal Act recognizes that development, even as designed and constructed to incorporate the recommendations of the applicant's coastal engineer, may still involve the taking of some risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the subject property. Thus, in this case, the Commission finds that due to the possibility of tsunami, storm waves, surges, erosion, liquefaction, flooding, and effects from sea level rise, the applicant shall assume these risks as a condition of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's Assumption of Risk, Waiver of Liability and Indemnity, as required by Special Condition Four (4), will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and that may adversely affect the stability or safety of the development it protects, and will effectuate the necessary assumption of those risks by the applicant. Finally, Special Condition Five (5) requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with the hazards and shoreline development policies of the Coastal Act.

C. PUBLIC ACCESS AND VISUAL RESOURCES

Coastal Act Section 30210 states:

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.

Coastal Act Section 30211 states:

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.

Coastal Act Section 30212 states (in part):

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Coastal Act Section 30251 states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

In addition, the Santa Barbara County LCP includes the following applicable provisions:

LUP Policy 3-1:

Seawalls shall not be permitted unless the County has determined that there are no other less environmentally damaging alternatives reasonably available for protection of existing principal

structures. The County prefers and encourages non-structural solutions to shoreline erosion problems, including beach replenishment, removal of endangered structures and prevention of land divisions on shorefront property subject to erosion; and, will seek solutions to shoreline hazards on a larger geographic basis than a single lot circumstance. Where permitted, seawall design and construction shall respect to the degree possible natural landforms. Adequate provision for lateral beach access shall be made and the project shall be designed to minimize visual impacts by the use of appropriate colors and materials.

LUP Policy 3-3:

To avoid the need for future protective devices that could impact sand movement and supply, no permanent above-ground structures shall be permitted on the dry sandy beach except facilities necessary for public health and safety, such as lifeguard towers, or where such restriction would cause the inverse condemnation of the parcel by the County.

LUP Policy 4-4:

In areas designated as urban on the land use plan maps and in designated rural neighborhoods, new structures shall be in conformance with the scale and character of the existing community. Clustered development, varied circulation patterns, and diverse housing types shall be encouraged.

Coastal Zoning Ordinance Section 35-61, Subsection 3:

For all new development between the first public road and the ocean, granting of lateral easements to allow for public access along the shoreline shall be mandatory. In coastal areas, where the bluffs exceed five feet in height, the lateral easement shall include all beach seaward of the base of the bluff. In coastal areas where the bluffs are less than five feet, the area of the easement to be granted shall be determined by the County based on findings reflecting historic use, existing and future public recreational needs and coastal resource protection. At a minimum, the lateral easement shall be adequate to allow for lateral access during periods of high tide. In no case shall the lateral easement be required to be closer than 10 feet to a residential structure. In addition, all fences, no trespassing signs, and other obstructions that may limit public lateral access shall be removed as a condition of development approval. This policy shall not apply to development excluded from the public access requirements of the Coastal Act by Public Resources Code Section 30212 or to development incidental to an existing use on the site.

1. Public Access

To carry out the requirement of Section 4 of Article X of the California Constitution, Coastal Act Section 30210 provides that maximum access and recreational opportunities be provided consistent with public safety, public rights, private property rights, and natural resource protection. Coastal Act Section 30211 requires that development not interfere with the public's right of access to the sea with certain exceptions. Coastal Act Section 30212 requires public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects with certain exceptions. Coastal access generally includes lateral access (access along a beach), vertical access (access from an upland street, parking area, bluff or public park to the beach), coastal bluff top trails, and upland trails that lead to the shore. In addition, Section 35-61 of the County's Coastal Zoning Ordinance provides that granting of lateral easements to allow for public access along the shoreline shall be mandatory for all new development between the first public road and the ocean. The beaches of Santa Barbara County are extensively used by residents and visitors alike. In the vicinity of Fernald Point and Sharks Cove where the subject site is located, vertical public access to the beach exists at Miramar Beach to the west and Lookout County Park to the east. Many beachgoers who access the beach from those locations often walk along the shoreline to Sharks Cove and Fernald Point, which is a scenic portion of Montecito's shoreline and is also an excellent surfing area. While the Commission cannot determine if prescriptive rights exist on the subject property, it must protect those potential public rights by assuring that any proposed development does not interfere with or will only minimally interfere with those rights.

The proposed project consists of a major remodel, partial demolition, and additions to an existing single-family residence. The subject property is among a uniquely-situated group of lots at the far eastern end of Fernald Point Lane and that occupy a narrow strip of beach at the base of a bluff. According to the National Oceanographic and Atmospheric (NOAA) National Ocean Survey tidal data, the Mean High Water (MHW) level is +4.5 ft. NAVD88 and the maximum observed water level is about +8.1 ft. NAVD88 in the location of the subject site. As such, the existing residence (+14.5 ft. NAVD88 foundation elevation; +16.2 finished floor elevation) is approximately 100 ft. landward and 10 ft. higher in elevation than the Mean High Water level. The submitted analysis also indicates that the shoreline in this area has been relatively stable in the long-term, as evidenced by regional historical data⁶. However, in consideration of a potential scenario of 4.75 feet of sea level rise based on the high scenario identified in the California Coastal Commission's Sea Level Rise Policy Guidance document⁷, along with the highest recorded tide in history (8.1 feet NAVD88) and wave action associated with a 100 year storm, it is projected that the MHW level and entire profile of the sandy beach in this area will shift landward by about 45 to 47 feet and the maximum wave runup is projected to reach approximately +14.5 NAVD88.

During processing of the subject permit application the applicant modified the proposed project to reduce the size of the new ground level cantilevered deck in order to ensure that it would not extend further seaward than the existing extent of development on the site. The applicant also modified the location and design of the proposed outdoor stairs between the residence and the beach in order to enhance its adaptive capacity and avoid direct placement on the bluff and beach. The proposed residential improvements would not extend any further seaward, nor lower in elevation, than the existing residential development on the property. As described in more detail in Section IV.B (Hazards and Shoreline Processes) of this report, the findings of the submitted wave run-up study and coastal engineering analysis for the project determined that the proposed improvements to the existing residence have been designed in a manner that will not require the construction or use of a shoreline protective device for the expected economic life of the development. Shoreline protective devices have the potential to result in individual and cumulative adverse effects to shoreline sand supply and the beach profile, which in turn may impact public access. Construction of a shoreline protective device to protect the proposed development would arrest the landward migration of the shoreline, and the corresponding migration of the publicly accessible intertidal zone. This would effectively take public trust

⁶ U.S. Geological Survey (Open File Report 2006-1219) National Assessment of Shoreline Change Part 3: Historical Shoreline Change and Associated Coastal Land Loss Along Sandy Shorelines of the California Coast.

⁷ National Research Council's 2012 report on Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future.

property that should be available for Coastal Act-priority uses—including access to and along the sea—and leave it in private hands. Courts have also found that shoreline armoring can constitute trespass on public tidelands. *United States v. Milner* (9th Cir. 2009) 583 F.3d 1174, 1189-1190. Therefore, in order to protect shoreline processes, natural landforms, the ambulatory nature of the shoreline, and continued public access to the shoreline, the Commission finds that it is necessary to ensure that no shoreline protective device will ever be built to protect the proposed development.

As such, Special Condition Three (3) requires the applicant to waive the right to build a new shoreline protective device to protect new development authorized by this Coastal Development Permit. Furthermore, the shoreline is a dynamic environment and although the proposed remodeled residence has been designed to ensure structural stability relative to wave action and forecasted sea level rise to the extent feasible, it is not possible to completely preclude the possibility that conditions on site will change and that the residence could be subject to greater wave action and tidal events in the future. If the structure is not constructed in a manner adequate to ensure structural stability relative to increased future wave action, sea level rise, and tidal events, Special Condition Three (3) has been required to further ensure that no future shoreline protective device will be constructed on site to protect the proposed development requiring the landowner to remove the development if a government agency orders that portions or all of the structures may not be occupied due to hazards or property ownership issues identified in this report. In addition, while the applicant has modified the proposed site plan to reduce the size of the new ground level cantilevered deck and modify the location and design of the proposed outdoor stairs in order to avoid seaward expansion of development on the sandy beach. Special Condition One (1) is necessary in order to require the applicant to submit two sets of final revised plans in which all plan sheets reflect the proposed changes. Additionally, Special Condition Seven (7) clarifies that the Commission's approval of this permit does not constitute a waiver of any public rights that may exist on the property and prohibits the applicant from using the permit as evidence of a waiver of any public rights that may exist on the property now or in the future. Special Condition 7 also clarifies that the permit does not authorize the development to physically interfere with any public access rights that may exist at any future date.

The science of sea level rise and coastal hazards prediction is well developed, but not perfect. Even if the home is designed to withstand predicted coastal hazards over the economic life of the project without the need for a shoreline protective device, there is a reasonable possibility that sea level rise and hazards will be greater than anticipated and the sandy beach area available for public recreation will narrow considerably. While Special Condition Three (3) would require the landowner to remove the development if a government agency orders that portions or all of the structures may not be occupied due to hazards or property ownership issues identified in this report, it is also necessary to provide adequate and consistent lateral public access along the shoreline in the face of potentially rapidly changing conditions and the ambulatory nature of the mean high tide line. The applicant has proposed, as part of the project description, to record an offer to dedicate a lateral access easement across the property to a public agency. The Commission finds it necessary to require **Special Condition Eight (8)** in order to implement the applicant's proposal. These conditions will allow the public trust tidelands to migrate inland over time, and ensure that the new development allowed by this permit does not impede future public access to or along the shore, thus assuring continued public access and use of coastal areas, as

required by the Coastal Act. Further, Section 35-61 of the County's Coastal Zoning Ordinance portion of its LCP (used as guidance in this case) requires that granting of lateral easements to allow for public access along the shoreline shall be mandatory for all new development between the first public road and the ocean. In consideration of this, the applicant has proposed to offer a lateral public access easement in this case as part of the proposed project. As such, Special Condition 8 requires the landowner to execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for lateral public access and passive recreational use along the shoreline. Such easement shall be located along the entire width of the property from the ambulatory mean high tide line landward to the seaward extent of approved development, which in this case is the dripline of the approved deck.

Further, **Special Condition Six (6)** is required in order to prevent the unauthorized posting of signs that attempt to limit public access to public trust lands or other lands open to the public. Special Condition 6 provides that no signs shall be posted on the property subject to this permit which either (a) explicitly or implicitly indicate that any portion of the beach located seaward of the subject site is private or (b) contain messages that attempt to prohibit public use of the beach. In no instance shall signs be posted which read "Private Beach" or "Private Property."

Thus, the Commission finds that the proposed project, as conditioned, will not significantly impact public access or recreational opportunities, and therefore the project is consistent with the public access policies of the Coastal Act.

2. Visual Resources

Section 30251 of the Coastal Act requires visual qualities of coastal areas to be considered and protected and that development be visually compatible with the character of surrounding areas and be sited and designed to protect views to and along the ocean and scenic coastal areas. In addition, Policy 4-4 of the County's LCP requires new development to be designed to conform to the scale and character of the existing community.

The existing three-story beachfront residence on the property was originally developed in 1973 and occupies a narrow strip of beach at the base of an approximately 30 ft. tall, south-facing bluff below U.S. Highway 101 and the UPRR tracks. A paved driveway that extends east from Fernald Point Lane provides access to the residence. Since the driveway is situated at the top of the bluff and the residence is situated at the base of the bluff, a pile-supported wooden bridge deck with an approximately 20 ft. span provides connection between the driveway and the uppermost floor of the residence where the garage is located. The proposed project consists of partial demolition (603 sq. ft. and only 36% of interior and exterior walls removed) and additions (1,107 sq. ft.) to the first and second stories of the residence, resulting in 504 sq. ft. of net additions. A minor amount of grading (140 cu. yds.) and 70 linear ft. of retaining walls are proposed to accommodate the proposed additions to the first story of the residence. The first and second stories of the residence comply with the 25 ft. maximum height requirement of the County's LCP, used as guidance in this case. The existing third story of the residence is non-conforming as to the County's height requirement. However, the existing non-conforming third story will not be expanded and only interior wall modifications and exterior façade changes are proposed to that level.

The proposed project received conceptual approval by the County's Montecito Board of Architectural Review (MBAR) on January 11, 2016. The MBAR determined that the proposed development would be compatible with the scale and character of the surrounding neighborhood. Commission staff also analyzed potential impacts to visual resources from the proposed project. Scenic public views of the coast and ocean from U.S. Highway 101 exist in the project vicinity. However, the residence is situated at the base of the bluff and at a much lower elevation than Highway 101. As such, bluewater views of the coast and ocean from the highway would not be adversely impacted by the proposed project. In addition, existing mature trees along Fernald Point Lane between the highway and the project site serve to screen the existing beachfront residences and minimize their visibility. And the proposed grading and retaining walls located on the landward side of the residence at the base of the bluff would not be visible from any public viewing areas and would not result in significant alteration of natural landforms. Further, the proposed additions and design changes to the existing residence would not create an inconsistency with the size and scale of the surrounding neighborhood. Therefore, in this case, the Commission finds that the proposed project is consistent with the visual resource protection policies of the Coastal Act.

D. MARINE RESOURCES AND WATER QUALITY

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states that:

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

Construction activities related to the proposed development have the potential to negatively impact the surrounding marine environment. Introduction of waste or construction debris into the marine environment could create deleterious impacts to coastal waters and could stem from activities such as stockpiling of materials or cleaning of construction equipment on or adjacent to the beach. In order to ensure that adverse impacts to the marine environment are minimized, the Commission finds it necessary to require the applicant to include construction best management practices in the project. **Special Condition Nine (9)** requires that the project applicant comply with specific construction standards and best management practices. Special Condition 9 further

requires that no construction materials, debris or waste shall be placed or stored where it may be subject to wave erosion and dispersion, that all debris resulting from construction activities shall be removed from the beach prior to the end of each work day; and no machinery or mechanized equipment shall be allowed in the intertidal zone.

Therefore, the Commission finds that the proposed project, as conditioned, will not significantly impact marine resources and is consistent with Sections 30230 and 30231 of the Coastal Act.

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (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 that the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, the proposed project, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures, which will minimize all adverse environmental effects, have been required as special conditions. The following special conditions are required to assure the project's consistency with Section 13096 of the California Code of Regulations:

Special Conditions 1 through 9

As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. The project, as conditioned, will not have any significant effects on the environment within the meaning of CEQA. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A

Substantive File Documents

State Lands Commission Review Letter regarding proposed project at 1821 Fernald Point Lane, dated February 3, 2016; Coastal Hazard and Wave Runup Study for 1821 Fernald Point Lane, prepared by GeoSoils, Inc., dated October 29, 2015; Response to Request for Additional Information Regarding Coastal Hazard and Wave Runup Study for 1821 Fernald Point Lane, prepared by GeoSoils, Inc., dated September 1, 2016; Response to Request for Additional Information Regarding Coastal Hazard and Wave Runup Study for 1821 Fernald Point Lane, prepared by GeoSoils, Inc., dated June 6, 2016; Letters from Gregory Van Sande of Van Sande Structural Consultants, Inc. regarding existing and proposed foundation system, dated January 20, July 20, and August 18, 2016; Emergency Coastal Development Permit No. 314-26; County of Santa Barbara Montecito Board of Architectural Review January 11, 2016 Meeting Minutes; Geologic Evaluation for Proposed Residential Addition at 1821 Fernald Point Lane, prepared by Campbell Geo, Inc., dated December 30, 2015; Preliminary Geotechnical Investigation for Proposed Residential Addition at 1821 Fernald Point Lane, prepared by Pacific Materials Laboratory of Santa Barbara, Inc., dated August 13, 2015; National Research Council (NRC). 2012. Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future. Report by the Committee on Sea Level Rise in California, Oregon, and Washington. National Academies Press, Washington, DC. 250 pp. http://www.nap.edu/catalog/13389/sea- level-rise-for-the-coasts-of-california-oregonand-washington>; California Coastal Commission Sea Level Rise Policy Guidance: Interpretive Guidelines for Addressing Sea Level Rise in Local Coastal Programs and Coastal Development Permits. Adopted August 12, 2015. <http://www.coastal.ca.gov/climate/slrguidance.html>.



Exhibit 1 CDP Application 4-15-0466 Location Map











*Note: This plan does not reflect revised ground level outdoor deck and staircase design per revised site plan dated 12/14/16.









GREGORY K. VAN SANDE, PE JENS AMLIE TOM PILLING SAGE M: SHINGLE, PE, SE

August 18, 2016

Mark Shields DesignARC 125 W Calle Laureles Santa Barbara, CA 93105

Re: King Beach Home

Dear Mark:

In response to your request, I am providing a detailed description and attaching related sketches to explain and illustrate how the proposed foundation system will function with the existing foundation system to maintain and ensure overall structural integrity.

Detail 1

The new reinforced, cast-in-place concrete grade beam installed to provide support for the proposed cantilevered concrete deck, is shown alongside and dowelled to the existing reinforced concrete exterior wall footing. The new grade beam will provide support for the concrete floor slab of the new east building addition as well as the east wall of the existing structure.

Detail 2

This detail takes care of the new concrete slab addition tie-in at the existing continuous footing around the west end of the building and where the new cantilevered deck slab abuts the existing footing along the south side.

The sixteen timber piles within the footprint of the existing structure will remain in place. The remaining six piles that support existing exterior wood decks will be no longer in use once those decks are removed, and will be cut off to a level below the bottom of the proposed concrete deck.

No significant foundation changes are anticipated in the area of the interior remodel. We have investigated existing floor framing and see no issue with spanning the area of removed walls with new beams sized to carry existing load bearing walls and the existing perimeter foundation. Where necessary, the few (if any) existing wood piles supporting the lower floor will be repaired using the fiber wrap (or equal) system – a common practice which reinforces and strengthens the existing piles enough to carry all superimposed loads. This interior structural work will be more accurately determined once the project is approved and is in the' Working Drawings' phase of the project.

Please do not hesitate to contact me if I can be of any further assistance.

Best Regards,

VAN SANDE STRUCTURAL CONSULTANTS, INC.

Gregy h M. Snd_

Gregory K. Van Sande

GKVS/cr

2920 DE LA VINA STREET SANTA BARBARA, CA 93105 805-963-6901 P / 805-963-2073 F www.VanSandeStructural.com







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*Note: This plan does not reflect revised ground level outdoor deck and staircase design per revised site plan dated 12/14/16.