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STAFF REPORT: REGULAR CALENDAR

Application No.:	**5-17-0323**
Applicant:	**City of Santa Monica**
Agent:	Selim Eren
Location:	1543 Ocean Front Walk, Santa Monica, Los Angeles County (APN: 4291-030-907)
Project Description:	Implementation of the Clean Beaches Project at the Santa Monica Pier to improve beach water quality and increase the City's drought resilience, by constructing an underground 1.6-million gallon concrete storage tank to store runoff and two underground pump stations within the City maintenance yard, and by removing and reconstructing the existing diversion structure under the pier, conveyance pipelines, and maintenance access holes, and by paving, lighting, landscaping, and converting the maintenance yard to 111 new public beach parking spaces.
Staff Recommendation:	Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to implement the Clean Beaches Project at the Santa Monica Municipal Pier to improve beach water quality, increase the City's drought resiliency, and meet the federal and state regulatory requirements mandated by the National Pollution Discharge Elimination System (NPDES) and Municipal Separate Storm Sewer System (MS4) permits. The applicant proposes to construct an underground 1.6 million gallon concrete storage tank beneath an existing maintenance yard (the Deauville Lot) that will store stormwater and urban runoff from the 106-acre Santa Monica Municipal Pier watershed. The existing flow diversion structure under the Municipal Pier parking lots and the Municipal Pier, including conveyance pipelines and maintenance access holes,

will be removed and reconstructed. Additionally, the applicant proposes to pave over the storage tank once complete and install 111 new public beach parking spaces, with lighting and landscaping incorporated on the subject site. This additional parking will increase public access at the beach (**Exhibit 2**).

The subject site is located between the first public road and the sea on a beach maintenance yard known as the Deauville Lot, at 1543 Ocean Front Walk, Santa Monica (**Exhibit 1**). The yard is adjacent to and north of the Santa Monica Municipal Pier, as well as two beach parking lots that are adjacent to the Santa Monica Municipal Pier: Lot 1N at 1550 Ocean Front Walk, which is adjacent to and north of the Santa Monica Municipal Pier on the Santa Monica State Beach, and the Pier Deck parking lot, which is adjacent to and south of the Santa Monica Municipal Pier on the Santa Monica State Beach. Work will also occur along Appian Way to install subgrade conveyance pipelines that will transport stored runoff from the storage tank to the Santa Monica Urban Runoff Recycling Facility (SMURRF). The City of Santa Monica manages the Deauville Lot, which will house the storage tank underground and the Municipal Pier parking lots (Lot 1N and the Pier Deck parking lot). However, the subject site is part of the Santa Monica State Beach, which is under the jurisdiction of the Department of Parks and Recreation under the 1991 Santa Monica Tri-Party Agreement with the State Lands Commission. The City received approval from the Department of Parks and Recreation for the proposed development (**Exhibit 4**).

The proposed project raises issues regarding coastal hazards concerning beachfront development, as well as potential water quality impacts during construction. Given that the applicant has chosen to implement the project on and under a parking lot adjacent to the beach despite future risks from wave attack, inundation, erosion, sea level rise, and storm flooding, the applicant must assume the risks and agree to no future shoreline protective devices. Therefore, the Commission imposes **Special Conditions 1, 2, 3, and 4** which require assumption of risk, no future shoreline protective device, no future development without an amendment to this permit or new coastal development permit, and a limitation on seaward encroachment of future development. Further, to ensure that construction occurs during the off season for public beach use, **Special Condition 5** imposes timing-related requirements for construction activities. In addition, because the project site is on a beach parcel and in proximity to coastal waters, **Special Condition 6** imposes construction-related requirements and best management practices to prevent pollution of coastal waters, and **Special Condition 7** requires compliance with the approved plans and all special conditions of the permit.

Staff is recommending **APPROVAL** of the proposed coastal development permit with **seven (7) Special Conditions**.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Santa Monica only has a certified Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Land Use Plan may be used for guidance.

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APPENDICES

Appendix A - Substantive File Documents

EXHIBITS

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit No. 5-17-0323 pursuant to the staff recommendation.*

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:

The Commission hereby approves a coastal development permit 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 and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. 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:

This permit is granted subject to the following 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 of 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:

This permit is granted subject to the following special conditions:

1. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding, sea level rise, erosion and wave uprush; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) 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.

2. **No Future Shoreline Protective Device.**
   A. By acceptance of this permit, the applicant(s) agrees, on behalf of itself and all other successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-17-0323 including, but not limited to, the underground storage tank, pumping stations, diversion structures, conveyance pipelines, maintenance access holes, and above-ground structures including pavement, lighting, landscaping, and public beach parking spaces, and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or other coastal hazards in the future, and as may be exacerbated by sea level rise. By acceptance of this permit, the applicant(s) hereby waives, on behalf of itself and all other successors and assigns, any rights to construct such devices that may exist under applicable law.

   B. By acceptance of this permit, the applicant(s) further agrees, on behalf of itself and all successors and assigns, that the development authorized by this permit, including but not limited to, the underground storage tank, pumping stations, diversion structures, conveyance pipelines, maintenance access holes, and above-ground structures including pavement, lighting, landscaping, and public beach parking spaces, shall be removed 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. In the event that portions of the development are destroyed, the applicant(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. Such removal shall require a coastal development permit. In addition, in the event that portions of the development are decommissioned and/or abandoned, the applicant shall remove all structures

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.

3. **Future Development.** This permit is only for the development described in Coastal Development Permit No. 5-17-0323. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-17-0323. Accordingly, any future improvements authorized by this Coastal Development Permit No. 5-17-0323, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-17-0323 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

4. **Seaward Line of Development.** By acceptance of this permit, the applicant(s) agrees, on behalf of itself and all other successors and assigns, that development described in Coastal Development Permit No. 5-17-0323, is considered ancillary development and the location of the ancillary structure shall not be used to establish the seaward line of any future development.

5. **Timing of Construction/Construction Staging Area.** By acceptance of this permit, the applicant agrees to minimize adverse impacts to public access and use of the Santa Monica Municipal Pier, surrounding beaches and parking lots resulting from construction activities approved pursuant to Coastal Development Permit No. 5-17-0323, including by sequencing construction activities and gradually reducing the construction staging area as less material and equipment are needed. The applicant further agrees that construction activities approved pursuant to Coastal Development Permit No. 5-17-0323 shall not occur during the peak use season to the maximum extent feasible. The peak use season is defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year. In the event that construction activities approved pursuant to Coastal Development Permit No. 5-17-0323 are required during the peak use season, the applicant agrees to report such construction activities to the Executive Director no less than 45 days prior to the beginning of the peak use season, and that an amendment to Coastal Development Permit No. 5-17-0323 may be required depending on the extent of the required construction activities.

6. **Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris**

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

   (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(s) shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.

(g) Debris shall be disposed of at a legal disposal site or recycled at a 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.

(l) 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.

7. **Permit Compliance**. Coastal Development Permit No. 5-17-0323 authorizes the implementation of the Clean Beaches Project at the Santa Monica Pier to improve beach water quality and increase the City's drought resiliency, by constructing an underground 1.6-million gallon concrete storage tank to store runoff and two underground pump stations within the existing City maintenance yard, and by removing and reconstructing the existing diversion structure under the pier, conveyance pipelines, and maintenance access holes, and

by paving, lighting, landscaping, and converting the existing maintenance yard to 111 new public beach parking spaces. All development must occur in strict compliance with the proposal as set forth in the application, subject to the special conditions.

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

IV. FINDINGS AND DECLARATIONS:

A. PROJECT DESCRIPTION & LOCATION

The applicant proposes to implement the Clean Beaches Project at the Santa Monica Municipal Pier to improve beach water quality, increase the City's drought resiliency, and meet the federal and state regulatory requirements mandated by the National Pollution Discharge Elimination System (NPDES) and Municipal Separate Storm Sewer System (MS4) permits. An underground, 33,000 sq. ft., 1.6 million gallon concrete storage tank will be constructed approximately 20 to 25 feet underground beneath an existing maintenance yard (the Deauville Lot) that will store stormwater and urban runoff from the 106-acre Santa Monica Municipal Pier watershed **(Exhibit 2)**. This will involve approximately 26,400 cubic yards of cut, with approximately 11,400 cubic yards exported to a landfill and approximately 15,000 cubic yards used for fill once the storage tank is completed. The tank will measure approximately 200 feet by 100 feet, with a height of approximately 15 feet. The existing subgrade flow diversion structure under the Municipal Pier parking lot (Lot 1N) and the Pier Deck parking lot, including conveyance pipelines and maintenance access holes, will also be removed and reconstructed to divert stormwater and urban runoff from the Pier outfall to the proposed stormwater harvesting tank. A new underground pump station will pump harvested storm water into the tank, while a second, new underground pump station will pump and transfer the harvested water through force main pipes under Appian Way to the existing Santa Monica Urban Runoff Recycling Facility (SMURRF) for treatment and reuse. Additionally, the applicant proposes to pave over the storage tank and install an additional 111 public beach parking spaces, including lighting and landscaping.

The subject site is located between the first public road and the sea on a beach maintenance yard known as the Deauville Lot, at 1543 Ocean Front Walk, Santa Monica (**Exhibit 1**). The yard is adjacent to and north of the Santa Monica Municipal Pier, as well as two beach parking lots that are adjacent to the Santa Monica Municipal Pier: Lot 1N at 1550 Ocean Front Walk, which is adjacent to and north of the Santa Monica Municipal Pier on the Santa Monica State Beach, and the Pier Deck parking lot, which is adjacent to and south of the Santa Monica Municipal Pier on the Santa Monica State Beach. Work will also occur along Appian Way to install subgrade conveyance pipelines that will transport stored runoff from the storage tank to the Santa Monica Urban Runoff Recycling Facility (SMURRF). The City of Santa Monica manages the Deauville Lot, which will house the storage tank underground and the Municipal Pier parking lots (Lot 1N and the Pier Deck parking lot). However, the subject site is part of the Santa Monica State Beach, which is under the jurisdiction of the Department of Parks and Recreation under the 1991 Santa Monica Tri-Party Agreement with the State Lands Commission. The City received approval from the Department of Parks and Recreation for the proposed development (**Exhibit 4**).

B. PUBLIC ACCESS

Section 30210 of the Coastal Act 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.*

Section 30211 of the Coastal Act 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.*

Section 30212(a) of the Coastal Act states:

> *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.*

The proposed project site includes a subgrade storage tank and two pumping stations under an existing beach maintenance yard (the Deauville Lot) at 1543 Ocean Front Walk, which is adjacent to and landward (east) of the Ocean Front boardwalk, or the lateral public walkway that runs the length of Santa Monica State Beach. Deauville Lot is currently inaccessible to the public. The conveyance pipelines will span two beach parking lots, Lot 1N and the Pier Deck parking lot, both of which are adjacent to and seaward (west) of the Ocean Front boardwalk on Santa Monica State Beach, though Lot 1N includes approximately 120 parking spaces landward of Ocean Front Walk and north of the Deauville Lot. Both Lot 1N and the Pier Deck parking lot are currently accessible to the public and are located north, and south, respectively, of the Santa Monica Municipal Pier. The Santa Monica Beach and Pier are very popular and heavily used, while Ocean Front Walk provides pedestrian and bicyclist access to and along the beach, as well as public beach access from various beach parking lots and commercial beachfront properties.

The proposed storage tank to be located under the Deauville Lot at 1543 Ocean Front Walk requires temporary staging on the northern portion of Lot 1N, which is north of the Deauville Lot and is sandwiched between the Pacific Coast Highway and Ocean Front Walk. Approximately 100 parking spaces will be temporarily impacted during the construction of the storage tank due to the staging of construction materials adjacent to the Deauville Lot, while work on the pumping stations and conveyance pipelines near the storage tank will impact access on Ocean Front Walk. To minimize these impacts, the applicant proposes a construction schedule that will occur during the public beach use off season, as feasible, from October 2017 through May 2018. Further, construction of the conveyance pipelines will occur in sections so that the entire site is not impacted for the duration of the project. The work zones and staging area will also be completely fenced off and secured, while

safety signage will be installed to inform visitors in the area of the work being performed and to direct visitors along Ocean Front Walk to detour routes. Weekly safety meetings, including safety inspections, will be conducted to ensure that fencing, barricades, and signage remains serviceable to ensure public safety and circulation. Lastly, the applicant proposes to remove heavy construction equipment from the site as soon as the storage tank has been installed and back filled. To ensure that construction occurs during the off season and that the staging area is gradually reduced as construction progresses, **Special Condition 5** requires construction to occur during the off season to the maximum extent feasible and for the construction staging area to be gradually reduced as the project progresses. **Special Condition 5** also requires the applicant to notify the Commission of potential construction activities that may occur during the peak use season of the public beach, as well as requiring an amendment to the coastal development permit if such construction activities further impact public access.

A traffic control plan will also be instituted by the applicant for work on the conveyance pipelines that run underground along Appian Way to SMURRF. During excavation and construction of the pipelines, either the northbound or southbound lane will be closed depending on the required work, but one lane will remain open at all times and will be supervised by a designated traffic and parking manager. At the end of each work day, trenches will be backfilled or trench-plated to maintain open traffic lanes in both directions, as feasible. Further, the traffic control plan will be required to conform to any updated requirements of the California Manual on Uniform Traffic Control Devices for Streets and Highways.

Once construction is complete, the additional 111 public beach parking spaces will operate under the same rates charged by the City for parking at Lot 1N and will provide a public access benefit by creating additional public access opportunities. Further, none of the proposed maintenance activities will impact beach access since the facilities are subgrade and are not located on the sandy beach or in areas that block access to the beach. As such, the proposed development will not restrict public coastal access and is consistent with Section 30210, 30211, and 30212 of the Coastal Act.

C. VISUAL RESOURCES

Section 30251 of the Coastal Act states, in relevant part:

> *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…*

Major scenic resources in the City of Santa Monica are identified in the City's Local Coastal Land Use Plan and the City's Scenic Corridor Element. Scenic resources include the coastline, beach and bay, the Santa Monica Pier, Pacific Palisades bluff, and the Santa Monica Mountains. The project site is located on developed property on the beach, including the Santa Monica Municipal Pier parking lots, under the Pier, and along Appian Way, and the area provides beachgoers, pedestrians, and bicyclists' views of these scenic resources.

The proposed project includes development that will be subgrade, with only the paving of the site and the subsequent installation of public parking spaces, lighting and landscaping that will result in

a change to the existing viewshed. However, the proposed development will result in an improvement to the existing viewshed by removing the existing maintenance yard and green construction fencing that currently surrounds the site. The site will also be improved by installing lighting and landscaping consisting of native plants. As such, the viewshed from McClure Tunnel while driving northbound on the Pacific Coast Highway and the viewshed of the Deauville Lot while driving northbound along the Pacific Coast Highway will be improved. However, to ensure that future development will not have any adverse visual impact, a future improvement condition (**Special Condition 3**) is imposed, requiring any future development to be permitted under an amendment to this coastal development permit or an additional coastal development permit. Accordingly, the Commission finds the proposed project will not interfere with and will maintain the public coastal views. As conditioned, the Commission finds the proposed project will not have a significant impact on visual resources and is consistent with Section 30251 of the Coastal Act.

D. HAZARDS

Section 30210 of the Coastal Act 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.*

Section 30211 of the Coastal Act 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.*

Section 30253 of the Coastal Act states, in relevant part:

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

Section 30251 of the Coastal Act states that:

> *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.

1. Wave Uprush and Flooding Hazards

The subject site is located on a beach maintenance yard, across two parking lots and under the Santa Monica Municipal Pier, all part of the Santa Monica State Beach. Presently, there is a wide sandy beach between the edge of the developed portion of the beach (Parking Lot 1N) and the ocean. The mean high tide line is approximately 960 feet from the seaward edge of the proposed project site (the Deauville Lot) for the underground storage tank, but approximately 400 feet from the seaward, or western-most, edge of Parking Lot 1N. This wide sandy beach currently provides these structures and other structures in the area some protection against wave uprush and flooding hazards.

However, even though wide sandy beaches afford protection of development from wave and flooding hazards, development in such areas is not immune to hazards. For example, in 1983, severe winter storms caused flooding and heavy damage to beachfront property with similar wide beaches in areas such as Playa del Rey and Surfside (Seal Beach). Heavy storm events such as those in 1994 and 1998 caused flooding of the Surfside community. More recently, Hurricane Marie, located offshore of Baja California, resulted in large swells in Newport Beach and coastal flooding in Playa del Rey and Seal Beach in August 2014. Furthermore, the hurricane (50-mph sustained winds and 100-mph gusts) also resulted in strong storm surge along the south facing beaches of Orange County. As a result, the Commission has required assumption-of-risk deed restrictions for new development on beachfront lots in Surfside and other similar communities.

Section 30253(a) states that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard. Based on historic information and current conditions at the subject site, the proposed development is not considered to be sited in a high hazard area, as the primary project site is located approximately 960 feet inland from the mean high tide line. The applicant also provided a coastal hazard analysis from American Geotechnical Inc. that concluded that the proposed development will neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas or in any way require the construction of shoreline protective devices (**Exhibit 5**). Further, it was determined that no coastal hazard impacts are anticipated during the design life of the project (30 years), including no impact from a 100-year storm event or a 100-year storm event with 1 meter of sea level rise (**Exhibit 5**). The results of the coastal hazard analyses also found the maximum wave run-up does not reach the project site with 1 meter of sea level rise, except in the event of 1 meter of sea level rise with a 100-year storm surge, which would only reach the seaward edge of the project site (**Exhibit 5**). Since the proposed development is landward of existing development (bike path) which has escaped storm damage during past severe storm events, the proposed development is not anticipated to be subject to wave hazard-related damage during its anticipated lifetime.

However, beach areas are dynamic environments, which may be subject to unforeseen changes. Such changes may affect beach processes, including sand regimes. The mechanisms of sand replenishment are complex and may change over time, especially as beach process altering structures, such as jetties, are modified, either through damage or deliberate design. Therefore, the presence of a wide sandy beach at this time does not preclude wave uprush damage and flooding from occurring at the subject site in the future. The width of the beach may change, perhaps in

combination with a strong storm event like those which occurred in 1983, 1994 and 1998, resulting in future wave and flood damage to the proposed development.

Given that the applicant has chosen to implement the project despite future risks from wave attack, erosion, sea level rise, or flooding, the applicant must assume the risks. Therefore, the Commission imposes **Special Condition 1** for an assumption-of-risk agreement. In this way, the applicant is notified of the potential hazards at the site and that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand the hazards. The assumption-of-risk condition is consistent with prior Commission actions for development along the beach. In addition, the condition ensures that future owners of the property will be informed of the risks and the Commission's immunity from liability. As conditioned, the Commission finds the proposed project is consistent with Section 30253 of the Coastal Act.

2. Future Shoreline Protective Devices

Section 30253 requires that new development does not require the construction of shoreline protective devices that alter natural landforms along bluffs or cliffs. In the case of the current project, the applicant does not propose the construction of any shoreline protective device to protect the proposed development. However, as previously discussed, nearby beachfront communities have experienced flooding and erosion during severe storm events, such as El Nino storms. It is not possible to completely predict what conditions the proposed structure may be subject to in the future. Consequently, it is foreseeable that the proposed structure may be subject to wave uprush hazards.

The Coastal Act limits construction of protective devices because they have a variety of negative 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. In addition, the construction of a shoreline protective device to protect new development would conflict with Section 30251 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms, including beaches which would be subject to increased erosion from such a device.

As briefly noted, above, shoreline protective devices can result in a number of adverse effects on the dynamic shoreline system and the public's beach ownership interests. First, shoreline protective devices can cause changes in the shoreline profile, particularly changes in the slope of the profile resulting from a reduced beach berm width. This may alter the usable area under public ownership. 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 reduces the actual area in which the public can pass on public property, inconsistent with sections 30210 and 30211 of the Coastal Act.

The second effect of a shoreline protective device on access is through a progressive loss of sand as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. A loss of area between the mean high water line and the actual water is a

significant adverse impact on public access to the beach, inconsistent with sections 30210 and 30211 of the Coastal Act.

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, inconsistent with sections 30210 and 30211 of the Coastal Act. This effect may not become clear until such devices are constructed individually along a shoreline and they reach a public beach. As set forth in earlier discussion, this portion of Santa Monica State Beach is currently characterized as having a wide sandy beach. However, the width of the beach can vary, as demonstrated by severe storm events. The Commission notes that 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. The Commission also notes that many studies performed on both oscillating and eroding beaches have concluded that loss of beach occurs on both types of beaches where a shoreline protective device exists.

Fourth, if not sited in a landward 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. Finally, revetments, bulkheads, and seawalls interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events but also potentially throughout the winter season, inconsistent with sections 30210 and 30211 of the Coastal Act.

In addition, the construction of a shoreline protective device to protect new development would also conflict with Section 30251 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms, including sandy beach areas which would be subject to increased erosion from shoreline protective devices. The applicant is not currently proposing a seawall and does not anticipate the need for one in the future **(Exhibit 3)**. The coastal processes and physical conditions are such at this site that the project is not expected to engender the need for a seawall to protect the proposed development. There is a wide sandy beach in front of the proposed development that provides substantial protection from wave activity. The Pier and the break water to the north also help protect the beach area. Moreover, according to the U.S. Geological Survey (USGS) Coastal Storm Modeling System (CoSMoS) 3.0 for Southern California, the proposed project site will not be subject to sea level rise within the lifetime of the development, which the City has indicated to be a minimum of 30 years. Further, the City has indicated that if the proposed development was subject to wave attack, erosion, sea level rise, or flooding, the development could be decommissioned and removed to avoid such hazards **(Exhibit 3)**.

To further ensure that the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, the Commission imposes **Special Conditions 2 and 3** prohibiting the applicant from constructing a shoreline protective device and requiring any future development to be permitted under an amendment to this coastal development permit or an additional coastal development permit. With the acceptance of the permit, the applicant agrees to no future shoreline protective devices for the purpose of protecting any of the development proposed as part of this application. This condition is necessary because it is impossible to completely predict what conditions the proposed structure may be subject to in the future. Consequently, as conditioned, the development can be approved consistent with Section 30251 and 30253.

By imposing the "No Future Shoreline Protective Device" special condition, the Commission requires that no shoreline protective devices shall ever be constructed to protect the development approved by this permit in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions or other natural hazards in the future. The Commission also requires that the applicant remove the structure if any government agency has ordered that the structure be removed due to wave uprush and flooding hazards. In addition, in the event that portions of the development are destroyed on the beach before they are removed, or if the structure is abandoned and/or decommissioned, the applicant shall remove all the structures 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.

3. Future Development

In past permit actions the Commission has limited new beach development to a stringline, disallowing new development seaward of the line of existing development, unless a wave hazard analysis demonstrated that an additional setback was needed. However, the proposed development will be located landward of existing development and thus will not be used to establish the seaward line for future development. Nonetheless, to ensure that the proposed project does not result in future encroachment of any future development, the Commission imposes **Special Condition 4**. With the acceptance of the permit, the applicant agrees that the ancillary structure approved by this permit will not be used to establish the seaward line of any future development.

4. Conclusion

To ensure that the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, the Commission imposes **Special Conditions 1, 2, 3, and 4**. As conditioned, the Commission finds that the proposed project is consistent with Coastal Act Sections 30251 and 30253.

E. WATER QUALITY/BIOLOGICAL ASSESSMENT

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

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

> *natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30232 of the Coastal Act states:

> *Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.*

Section 30230 of the Coastal Act requires that marine resources be maintained, enhanced, and where feasible, restored, and further requires that uses of the marine environment shall sustain the biological productivity of coastal waters. Section 30231 of the Coastal Act requires that the biological productivity and the quality of coastal waters be maintained, and where feasible, restored through measures aimed at reducing water resource impacts from proposed development. Section 30232 of the Coastal Act requires protection against the spillage of crude oil, gas, petroleum products, or hazardous materials in relation to any development.

The proposed project is intended to reduce polluted runoff from the nearby area and to help clean up coastal waterways. As such, it conforms with Section 30231's mandate to maintain or, where feasible, restore coastal waters. However, project construction also poses a potential source of pollution during its construction phases, including contaminated runoff and dewatering groundwater mixing with construction pollutants and entering the storm drain and/or coastal waters. The City, to mitigate these potential impacts, has adopted construction best management practices (BMPs), including removing debris from the site and disposing of such debris at a licensed landfill; maintaining all storm drain inlets in a clean and operational state; treating any ground water from the dewatering process with Granular Activated Carbon and sediment filters prior to its discharge into the sanitary sewer system; and complying with the water quality standards set by the Regional Water Quality Control Board, the National Pollutant Discharge Elimination System, and the Stormwater Pollution Prevention Plan, including *Scheduling*[1] BMPs.

In order to avoid any potential adverse construction-related impacts upon marine resources, the Commission imposes **Special Condition 6**, which outlines construction best management practices, construction-related requirements to provide for the safe storage of construction materials, and the safe disposal of construction debris. Therefore, as conditioned, the Commission finds that the proposed project is consistent with Coastal Act Sections 30230, 30231 and 30232.

F. LOCAL COASTAL PROGRAM (LCP)

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, excluding the area west of Ocean Avenue and Neilson

[1] Scheduling is the development of a written plan that includes sequencing of construction activities and the implementation of BMPs such as erosion control and sediment control while taking local climate (rainfall, wind, etc.) into consideration

way (Beach Overlay District). On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will therefore not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of the Commission's regulations requires Commission approval of coastal development permit applications 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 which the activity may have on the environment.

The development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. **Special Conditions** imposed will mitigate adverse impacts to coastal resources and public access. The **Special Conditions** address the following issues: **1)** an assumption of risk agreement to acknowledge inherent coastal hazards adjacent to the project; **2)** no future shoreline protective device to mitigate for potential adverse impacts to shoreline sand supply, access, and recreation; **3)** future development condition to ensure the applicant is aware of future obligations to apply for a permit if any further development is proposed; **4)** limitation on seaward encroachments; **5)** timing-related requirements for construction and staging area; **6)** storage of construction materials, mechanized equipment and removal of construction debris to protect coastal water quality from pollutant discharges; and **7)** compliance with the proposed project and all special conditions of the permit. The Commission also finds that there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect of the proposed project, that there are no remaining significant impacts after mitigation and conditions are imposed, and that the project is consistent with CEQA and the policies of the Coastal Act.

Appendix A - Substantive File Documents

- City of Santa Monica certified Land Use Plan
- USGS *CoSMoS 3.0* – 2100 Shoreline Position and Sea Level Rise Projection
- 1991 Santa Monica Tri-Party Agreement