

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



W9b

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Hearing Date: 6/7/2017

STAFF REPORT: CONSENT CALENDAR

Application No.: 5-17-0226

Applicant: Team Haley, LP

Agents: KC Coultrup

Location: 16832 Pacific Coast Highway, (Sunset Beach)
Huntington Beach, Orange County
(APN 178-532-34)

Project Description: Reconstruction of an existing fire damaged structure, resulting in a 2,886 square foot structure, including a 1,628 square foot first floor commercial space, a 1,121 square foot second floor, single residential unit. An existing, parking lot is proposed to remain.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to reconstruct an existing mixed use commercial/residential structure on a harbor-front, bulkheaded lot. No changes to the existing bulkhead are proposed. The proposed project has adequate parking on-site to serve the proposed development. However, if additional, off-site uses were to share the subject 19 space parking lot, as appears to have been the case in the past, an evaluation would be necessary of whether adequate parking would still be provided to serve the proposed development. Due to its harbor-front location, the project site may be exposed to the hazards of waves, storm conditions, sea level rise, or other natural hazards. However, the project as modified can be found consistent with previous Commission approvals in the area and conditions have been imposed in order to minimize potential adverse impacts from the development and be consistent with the Chapter 3 policies of the Coastal Act.

Staff is recommending **approval** of the proposed project with seven (7) special conditions regarding: **1) limiting use of the on-site parking lot exclusively to the uses contained in the proposed structure, unless and until a Parking Management Plan is submitted and accepted**

by the Executive Director; 2) applicant's assumption of risk, waiver of liability and indemnity; 3) prohibition on future seaward extension of shoreline protective devices (bulkhead) and any future new shoreline protective devices; 4) review of future development; 5) conformance to protective construction methods; 6) conformance with approved drainage plan; and, 7) recordation of a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

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- [Exhibit 1 – Vicinity/Area Maps](#)
- [Exhibit 2 – Site Plan](#)
- [Exhibit 3 – Project Plans](#)
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I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all of the permits included on the consent calendar. 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 Chapter 3 policies 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

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. Parking

- A. The nineteen (19) parking spaces on the subject site shall be available to serve only the development approved under this coastal development permit 5-17-0226, except as provided below in subsection B of this condition. Any reduction in the number of spaces available at the subject site shall require an amendment to this permit or a new coastal development permit, unless the Executive Director determines that none is legally required.
- B. Any shared use of the on-site parking spaces for a use other than that approved under this permit shall be allowed only when a Parking Management Plan, prepared by an appropriately licensed professional, has been submitted for the review and approval of the Executive Director. The Parking Management Plan, shall include, but is not necessarily limited to:
 - a. a detailed description of each type of the use and the related area in gross square feet that will be sharing the on-site parking (including the residential and commercial uses approved at the site);
 - b. the hours each use will have access to the on-site parking;
 - c. copy(ies) of the sample or actual legal instruments demonstrating evidence of the joint use agreement to be implemented between the owner of the site (current applicant and/or any future successors or assigns) and owner/operator of the use which will be sharing the parking;
 - d. evidence supporting the likelihood of success of the shared use such as:
 - i. the separate and distinct hours of operation of use,
 - ii. expectation of single patron accessing more than one use served by the subject parking;
 - e. measures to be employed to promote and encourage alternate forms of transportation (e.g. public transit, bicycle use, etc.) such as, but not limited to the placement of bicycle racks on-site, subsidizing public transit passes for employees, etc.
- C. No shared use parking may proceed at the subject site without written approval of a Parking Management Plan by the Executive Director. If the Executive Director approves a Parking Management Plan as described in subsection B above, then the permittee/property owner shall submit all executed legal instrument(s) demonstrating evidence of the joint use parking agreement between the owner of the site (permittee and/or any future successors or assigns) and the owner/operator of the use(s) which will be sharing the parking, within ninety (90) days of execution of said parking agreement(s).
- D. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

2. **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 waves, erosion, storm conditions, liquefaction, flooding, and sea level rise; (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.

3. **No Future Expansion to Existing Shoreline Protective Device, No Future New Shoreline Protective Device.**
 - A. By acceptance of this Permit, the applicant agrees, on behalf of itself (or himself or herself or themselves, as applicable) and all successors and assigns, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protective device that is located at the seaward property line of the site that is the subject of Coastal Development Permit No. 5-17-0226, as described and depicted on an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit, shall be undertaken if such activity extends the footprint seaward of the subject shoreline protective device. By acceptance of this Permit, the applicant waives, on behalf of itself (or himself or herself or themselves, as applicable) and all successors and assigns, any rights to such activity that may exist under Public Resources Code Section 30235.

 - B. By acceptance of this Permit, the applicant agrees, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, that no new shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No.5-17-0226, as described and depicted on an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit, including 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 (or himself or herself, as applicable) and all successors and assigns, any rights to construct such devices that may exist under applicable law.

 - C. Prior to the issuance by the Executive Director of the NOI FOR THIS PERMIT, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the shoreline protective device that is located at the seaward property line of the site that is the subject of Coastal Development Permit No. 5-17-0226, as generally described in this staff report and shown on Exhibit 3 attached to this staff report, showing the footprint and the elevation of the device referenced to NAVD (North American Vertical Datum).

- D. By acceptance of this permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner(s) shall remove the development authorized by this permit, including the structure, foundations, and hardscape if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the harbor waters before they are removed, the landowner(s) shall remove all recoverable debris associated with the development from the harbor waters and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.
4. **Future Development.** This permit is only for the development described in Coastal Development Permit No. 5-17-0226. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to the development governed by Coastal Development Permit No. 5-17-0226. Accordingly, any future improvements to the commercial/residential structure and/or foundations authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-17-0226 from the Commission or shall require an additional Coastal Development Permit from the Commission or from the applicable certified local government.
5. **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 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.

6. **Conformance with Drainage Plan.**

The applicant shall conform with the drainage plan by Kemmerer Design Architecture dated 4/3/17 showing runoff from the impervious areas directed to catch basins with bio-filters to be inspected annually. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

7. **Deed Restriction.**

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

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

STANDARD OF REVIEW

The project site is located in an area previously subject to the formerly certified County of Orange Local Coastal Program (LCP) for the Sunset Beach area. Sunset Beach was annexed by the City of Huntington Beach in 2010. Upon annexation, the County's certification lapsed. The Sunset Beach annexation area has not yet been incorporated into the City of Huntington Beach's otherwise certified LCP. Thus, the standard of review for coastal development permits in Sunset Beach is the Chapter 3 policies of the Coastal Act. However, the formerly certified LCP may be used as guidance.

Pursuant to Section 30610(g)(1) of the Coastal Act, disaster replacement exemptions apply only when, among other things, the replacement structure does not exceed the height of the structure to be replaced by more than 10%. In this case, the maximum height of the structure to be replaced is 19 feet 4 inches, and the maximum height of the proposed structure will be 28 feet 4½ inches. Ten percent of 19 feet 4 inches is just less than two feet and would allow a maximum height of 21.2 feet. The proposed height is 28.3 feet, thus exceeding the 10% threshold by more than 7 feet. Even discounting the need to raise the bottom elevation by 2 feet above previous bottom elevation as required by the City to meet current FEMA (Federal Emergency Management Agency) requirements, the proposed height would still exceed the former height by more than 10%. Therefore, the proposed development cannot be found exempt from coastal development permit requirements. In addition, even if the height were within the 10% threshold, evidence of the size, height, and location of the destroyed structure to be replaced would need to be submitted, as well as evidence that the destroyed structure was properly permitted, in order to allow an exemption from CDP requirements for the proposed development under Section 30610(g)(1) of the Coastal Act. Thus, the proposed development requires approval of a coastal development permit, as is reflected by the current application.

A. PROJECT DESCRIPTION

The proposed project is located on a 7,628 square foot harbor-front lot at 16832 Pacific Coast Highway, in the Sunset Beach area of the City of Huntington Beach, Orange County (Exhibit 1). The proposed development is the reconstruction of an existing fire damaged structure, resulting in a 2,886 square foot structure, including a 1,628 square foot first floor commercial space, a 1,121 square foot second floor, single residential unit. An existing parking lot is proposed to remain.

The subject site is a harbor-front, bulkheaded lot. A boat dock also currently exists at the site. The existing bulkhead at the subject site was permitted pursuant to Coastal Development Permit No. 5-83-826 and 5-83-826-A. The boat dock at the subject site was permitted pursuant to Coastal Development Permit No. 5-83-826-A2. No work is proposed to the existing bulkhead or boat dock.

B. PARKING AND PUBLIC ACCESS

A twenty-space parking lot currently exists at the subject site. The parking lot will be re-striped in order to accommodate required relocation of a handicapped space nearer to the building. Even with the reduction of one parking space, the 19 parking spaces are adequate to support the parking demands of the proposed structure. The Commission's typically imposed parking standards include two spaces per residential unit and one space per 225 square feet of gross floor area for general retail space. This is also consistent with the County's previously certified LCP for Sunset Beach.

Based upon these typically imposed parking standards, the proposed residence would require two parking spaces and the proposed retail commercial space would require 8 spaces (1628 square feet x 1 space/225 square feet = 7.235 or 8 spaces). However, the subject parking lot has previously been shared by surrounding uses including the immediately adjacent office/commercial structure and a nearby restaurant which if continued may result in a shortage of onsite parking spaces for the proposed development here.

Sunset Beach is generally short of parking due to development of the area prior to imposition of current parking standards; many existing uses are not able to accommodate adequate parking on-site. Thus, in cases where additional parking is available, shared use parking may be appropriate. However, such shared use of parking must be documented so that which spaces are dedicated to specific uses can be tracked. Also, it is important to assure that sharing parking spaces does not further exacerbate existing parking shortages. Parking shortages in Sunset Beach can adversely impact public access in that any site in Sunset Beach is no more than one or two blocks from the beach or harbor. Thus, if the subject site's parking lot is to be considered for use by additional facilities, a Parking Management Plan would first need to be evaluated to assure adequate parking for the proposed development remains at the site so that public access is protected. In other words, failure to develop a Parking Management Plan to properly manage off-site use of the parking lot that is part of this proposed development could result in visitors and patrons who otherwise need to use this parking lot exacerbating parking shortages by occupying other public parking spaces, resulting in adverse impacts to coastal access. **Special Condition No. 1** prohibits use of the subject site's parking lot by off-site uses unless and until a Parking Management Plan is submitted to and accepted by the Executive Director.

Vertical public access to the harbor waters is available approximately 100 feet southeast of the project site at "11th Street Beach", and public access to the sandy ocean beach is located approximately two blocks to the southwest.

C. HAZARDS

Development adjacent to the ocean is inherently hazardous. Global sea levels have risen about 8 inches over the past century. Prior to 1990, sea level rose at an average of 1.1 mm/year, and after 1990 that rate accelerated to 3.1 mm/year, demonstrating an observed increase in the rate of global sea level rise. The current best available science on future sea level rise anticipates 1.6-12 inches of sea level rise by 2030, 5-24 inches by 2050, and 17-66 inches by 2100 (NRC 2012¹). If anthropogenic emissions continue without major curtailments, sea levels are expected to rise at rate at the high end of those ranges. Furthermore, developing science on the mechanisms of ice sheet melt and other drivers of sea level rise is suggesting the possibility of an even more extreme scenario of 10 feet by the year 2100 (Griggs et al. 2017²).

Rising sea levels are exacerbating and will continue to intensify hazards along the shoreline, including inundation, storm flooding, erosion, saltwater intrusion into aquifers, and liquefaction. Some shoreline development will experience increasingly hazardous conditions over time; therefore, to ensure safety and structural integrity consistent with Section 30253 of the Coastal Act,

¹ 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>.

² Griggs, G, Árvai, J, Cayan, D, DeConto, R, Fox, J, Fricker, HA, Kopp, RE, Tebaldi, C, Whiteman, EA (California Ocean Protection Council Science Advisory Team Working Group). Rising Seas in California: An Update on Sea-Level Rise Science. California Ocean Science Trust, April 2017.

development must be sited and designed in such a way that takes into account the anticipated impacts of sea level rise over the full time span of its economic life. Changing conditions could also alter the anticipated impacts of the development upon coastal resources. In particular, coastal resources such as beaches and wetlands that are located just inland of the sea could disappear if they are squeezed between rising sea levels and a fixed line of development on the shoreline, thus impacting public access, recreation, visual, and other coastal resources. Therefore, to be consistent with the Chapter 3 policies of the Coastal Act, proposed development must be sited, designed, and conditioned in such a way that considers the impact of the development upon coastal resources over its full economic life, avoiding and mitigating those impacts as appropriate.

No work is proposed to the existing bulkhead at the site. Nevertheless, in order to find the proposed development consistent with the hazard policies of the Coastal Act, assurances must be in place as to the adequacy of the existing bulkhead to support the proposed development, under both current conditions and with anticipated sea level rise over the expected life of the project.

To that end, the applicant submitted a *Bulkhead Condition Report and Sea Level Rise Discussion* (Report), prepared by GeoSoils, Inc. and dated April 4, 2017, and updated May 24, 2017. The Report found: “The proposed mixed use structure has an economic life of about 75 years. The bulkhead is in very good condition and has been in place for about 30 years. With maintenance³, it is reasonable to assume that the bulkhead could last another 75 years or more. The bulkhead can be modified to adapt to sea level rise (SLR) as discussed later in this report.” The Report examines the implications of projected sea level rise rates provided by various sources, stating: “According to the mean of all the estimates, including the CCC [California Coastal Commission, Sea-Level Rise Policy Guidance] High estimate, the bulkhead would be safe from overtopping until 2050 and the lowest waterproofed FF [finished floor] safe from flooding until past 2100. It also shows that under some SLR predictions the bulkhead will be safe from overtopping until at least 2092 (75 years). Using the COPC [California Ocean Protection Council] low projection the bulkhead is safe from overtopping until the year 2070 and the lowest FF safe until after 2100.” Finally, the Report as updated 5/24/17 concludes: The current top of wall is about +8.4 NAVD88. The highest sea level rise (SLR) rate plus the highest historical water elevation is at about +12.03 feet NAVD88. The design of the bulkhead is such that more than 4 feet can be added without any bay-ward encroachment or extension of the bulkhead bay-ward. The steel reinforced concrete bulkhead can simply be extended up within the same structure footprint. And further states: “The proposed building is designed such that waterproofing can be extended above elevation +12 NAVD88, in the future, to adapt to SLR.”

Based upon these assurances from the applicant’s coastal engineer, the proposed project is expected to be safe from coastal threats even under future SLR conditions. The coastal engineer also finds that the existing bulkhead is adequate to support future bulkhead cap replacement or upward/vertical extension if deemed necessary in the future without any bay-ward encroachment of the bulkhead. **Special Condition No. 3** enforces the coastal engineer’s statement that no bay-ward encroachment of the existing bulkhead (shoreline protection device) is necessary to support the proposed development and also requires that the applicant remove development should any government agency order that the structure is not to be occupied due to coastal hazards. **Special**

³ The Coastal Engineer, preparer of the Report, clarified that maintenance in this case means: “Typical maintenance would be to repair spalled concrete. There was NO signs of spalling during the inspection but concrete and steel structures ON the ocean can require this type of “patching” This would be in small areas likely in less than 2% of the bulkhead surface. This would NOT require mechanized equipment, just chipping and patching. This type of maintenance will likely NOT be needed for the next few decades but possible twice over the next 75 years.”

Condition No. 2 acknowledges that building near the coast is inherently hazardous and that the applicant is aware of the risks.

As conditioned, the proposed project includes measures to both ensure the safety of the development and minimize coastal resource impacts over its economic life under the full suite of anticipated sea level rise scenarios. In particular, development which may require the seaward extension of a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to: require a drainage plan to direct and treat the flow of water offsite (**Special Condition No. 6**); prohibit the seaward extension of protective devices (such as a bulkhead) in the future as well as the construction of new shoreline protective devices on the site; to require that the applicant remove development should any government agency order that the structure is not to be occupied due to coastal hazards (**Special Condition No. 3**); and to require that the landowner and any successor-in-interest assume the risk of undertaking the development (**Special Condition No. 2**). As conditioned, the Commission finds that the development conforms to the requirements of Sections 30253 of the Coastal Act regarding the siting of development in hazardous locations.

D. DEVELOPMENT

In the County's formerly certified LCP for Sunset Beach the subject site is zoned Sunset Beach Tourist which was intended to provide a commercial area to supply the needs of tourists, visitors, and the local community. The Sunset Beach Tourist commercial zone allowed residential uses when located above the first floor of a principal permitted use when parking for both uses is provided and when the residential use does not exceed fifty (50) percent of the gross square footage of the entire structure. The proposed development meets these criteria.

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development at the project site with regard to hazards and/or to impacts to public access due to parking issues potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a Future Development **Special Condition No. 4** must be imposed. As conditioned the development conforms to the public access and recreation policies of the Coastal Act.

E. WATER QUALITY

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. To reduce the potential for construction related impacts on water quality, the Commission imposes **Special Condition No. 5** requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters. To reduce the potential for post-construction impacts to water quality the Commission requires the continued use and maintenance of post construction BMPs. The applicant has proposed a drainage plan that will direct site drainage to catch basins outfitted with bio-filters. These bio-filters are proposed to be inspected and cleaned annually. **Special Condition No. 6** requires the proposed drainage plan be implemented as proposed. As conditioned, the Commission finds that the

development conforms to the water quality policies of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

F. DEED RESTRICTION

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition No. 7** requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the land use and enjoyment of the land in connection with the authorized development, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

G. LOCAL COASTAL PROGRAM (LCP)

An LCP for the City of Huntington Beach was effectively certified in March 1985. However, the subject site is located in the Sunset Beach area of Huntington Beach. Sunset Beach was annexed by the City of Huntington Beach in 2010. The City's certified LCP has not yet been amended to incorporate this recently annexed area. Consequently, in this uncertified area of the City, the standard of review for coastal development permits is the Chapter 3 policies of the Coastal Act. As conditioned, the proposed development is consistent with the Chapter 3 policies of the Coastal Act. Approval of a CDP here for the permitted development will not prejudice the ability of City of Huntington Beach to prepare an LCP amendment incorporating Sunset Beach that is in conformity with Chapter 3 of the Coastal Act.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

As determined by the City, the proposed development is statutorily exempt from CEQA under section 15303. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. (*See* Pub. Res. Code sec. 21080.5(d)(2)(A).) Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA. (*See* 14 CCR sec. 13096; *see also* 14 CCR sec. 15251(c) [Commission issuance of CDPs constitutes certified regulatory program for CEQA purposes].)