

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

Application No.: 5-18-0304

Applicant: City of San Clemente

Agent: TranSystems Corporation

Location: 620 Avenida del Mar, San Clemente, Orange County
(APN: 058-24-013 and 058-24-014)

Project Description: Construction of a new steel pile seawall and concrete cap in front of an existing seawall protecting the Marine Safety Building, new concrete armor mat between the seawall and building foundation wall under the building, structural foundation repair work, and exterior building improvements consisting of removal of a wood catwalk, replacement of an at-grade concrete deck and wood deck, and replacement of building siding along the northwest and southwest ocean facing sides of the building.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION:

The proposed project involves development on the sandy beach. The City (applicant) is proposing structural exterior improvements and foundation repairs to the 50-year old Marine Safety Building and a new steel sheet pile seawall shoreline protective device seaward of two existing seawalls located approximately 15 ft. seaward of the existing building.

In 1998, under CDP 5-98-187, the Commission approved replacement of an existing steel sheet pile seawall in the same location/alignment and again in 2005, the Commission approved a new steel sheet pile seawall to be constructed inland of the existing seawall along with substantial Marine Safety Building foundation repairs and additional foundation erosion control under CDP 5-03-121. Included in the subject CDP application, the City now proposes placement of a new third seawall

seaward of the existing two seawalls. The new approximately 220 linear ft. long, +9.5 ft. (MLLW) tall seawall will also have a 2'4" wide concrete cap connecting all three seawalls together and continue with a new concrete armor mat between the new seawall and building foundation wall under the building providing "slope protection" to protect the building's foundation from undermining due to wave erosion.

The Marine Safety Building is a structure that pre-dates the enactment of the Coastal Act. The facility contains the City's lifeguard operations directly supporting coastal access and recreation at the beach. Building foundation repairs and protection of the foundation from erosion is crucial the performance of the building; continued undermining and wave run up will cause the foundation to deteriorate and fail. The proposed structural improvements and foundation repairs plus new steel sheet pile seawall are necessary to extend the building's life 5-10 years while a replacement building is being designed and constructed, according to the Marine Safety Building Structural Condition Assessment Report provided by the City. As the City is characterizing the proposed projects as repairs and not new development, the City did not provide a full shoreline hazards analysis taking future sea level rise hazards into consideration. As the seawall is proposed as a short-term measure providing protection for 5-10 years, the design height of the proposed new seawall does not take into consideration long-term sea level rise.

Although the repairs are deemed necessary to protect the existing building, it is necessary to determine that the proposed project is the least damaging alternative. As proposed, the new sheet pile wall proposed to be placed seaward of all the existing development would add and exacerbate the adverse impacts that are occurring to the beach as a result of the existing structure, such as hindered sand transport, erosion and beach encroachment. As proposed, the new seawall does not conform to Coastal Act Section 30235 which allows the construction of a seawall to be permitted "*when required to serve coastal dependent uses or to protect existing structures in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.*" Therefore, in order to bring the proposed project into compliance with Coastal Act Section 30235, staff recommends approval of the proposed coastal development permit with **Special Condition 1** requiring the applicant submit revised final bulkhead/seawall plans moving the location of the new bulkhead inland of the existing bulkhead, cutting down the currently exposed steel sheet pile bulkhead to below beach scour level and redesigning the new bulkhead if necessary to accommodate any potential future need for an increase in its height. Additionally, as modified through conditions of approval, the seawall is the minimum necessary to protect the existing structure and will only be authorized for as long as the existing public building requiring protection exists. Upon future redevelopment of the property, removal of the seawall authorized by this permit would be considered.

Staff is recommending **approval** of the proposed coastal development permit with **ten (10)** special conditions. The special conditions are for: **1) Submittal of Revised Final Bulkhead Plans 2) Shoreline Structure Authorization Terms; 3) Other Agency Approvals; 4) Construction Staging Plan; 5) Timing of Construction and Public Access; 6) Construction Phase BMPs; 7) Assumption of Risk, Waiver of Liability and Indemnity; 8) Future Improvements; 9) Future Development of the Site; and 10) Public Rights.**

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EXHIBITS

- [Exhibit 1 - Vicinity Map](#)
- [Exhibit 2 – Public Access](#)
- [Exhibit 3 – Marine Safety Building Structural Repair Plans](#)
- [Exhibit 4 – Marine Safety Building Bulkhead/Seawall Plans](#)
- [Exhibit 5 – Existing Site Condition Photographs](#)
- [Exhibit 6 – Approximate High Tide and Mean High Water at Subject Site](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 5-18-0304 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. **Submittal of Revised Final Bulkhead Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, two full-size sets of Bulkhead Plans that conforms with the plans submitted to the Commission, titled Marine Safety Building Bulkhead Repairs, Project No. 16530 dated 3/12/18, for an approximately 220 linear feet long +9.6 ft. (MLLW) tall steel sheet pile bulkhead with a concrete cap except that they shall be modified as required below:
 - a. The location of the new bulkhead shall be inland of the existing bulkhead(s) as depicted on the Existing Bulkhead Plan, Drawing No. S-101, Sheet 4 of 6 dated 3/12/18;
 - b. The existing bulkhead(s) shall be cut down either to below the beach scour level, or down to bedrock level to reduce beach level exposure;
 - c. If necessary, the new bulkhead shall be redesigned to take on any additional load currently supported by the existing bulkhead(s). The new bulkhead shall be designed to a minimum +1 ft. MLLW sand level; and
 - d. The new bulkhead shall also be designed in such a manner that would not preclude any potential future adaptation to rising sea level, such as an increase in height.

All revised plans shall be prepared and certified by a licensed professional or professionals as applicable (e.g., architect, surveyor, geotechnical or civil 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.

The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

2. **Shoreline Structure Authorization Terms.** The shoreline protective device and armoring approved by this CDP results in the extension of the useful life of the existing bulkhead/seawall fronting the Marine Safety Building at 620 Avenida del Mar, San Clemente for a 15-year period after permit issuance. Additional reassessment for impacts to sand supply, public access and recreation and any other relevant coastal resources impacted by the seawall will be required if the seawall remains beyond the initial approved period and if expansion and/or alteration to the existing seawall is proposed or if any significant alteration or improvement is proposed for the existing building. This CDP authorizes the shoreline structure pursuant to the following terms:

a. **Termination.** The authorization for the shoreline structure terminates after 15 years, or when the Marine Safety Building (1) is redeveloped as defined in subsection a(ii) below; (2) becomes uninhabitable and is demolished or is no longer present; or (3) no longer requires shoreline armoring, whichever occurs first. Prior to the anticipated termination of the authorization and/or in conjunction with redevelopment of the property, the permittee shall apply for a new CDP or amendment to this CDP, to remove the shoreline armoring or to modify the terms of its authorization.

i. **Extension of Authorization and Mitigation.** If the permittee intends to keep the shoreline structure in place beyond the authorized 15-year period, the permittee shall submit a complete application for a CDP or amendment to this CDP to reassess on-going impacts of the structure, including an evaluation of actions to reduce or eliminate those impacts. The complete application shall be submitted no later than 6 months prior to the end of the original mitigation period. The application shall include analysis of feasible alternatives to modify the shoreline structure or the development to reduce or eliminate to the maximum extent feasible the shoreline structure's impacts on coastal resources, and shall propose mitigation for unavoidable coastal resource impacts associated with the retention of the structure beyond the initial mitigation period.

ii. **Redevelopment Definition.** Development that meets the criteria A or B below shall be considered redevelopment:

A. Development that consists of alterations including (1) additions to an existing structure, (2) exterior and/or interior renovations, and/or (3) demolition or replacement of the existing Marine Safety Building, or portions thereof, which results in:

(1) Alteration (including demolition, renovation or replacement) of 50% or more of major structural components including exterior walls, floor, roof structure or foundation, or a 50% increase in gross floor area. Alterations are not additive between individual major structural components; however, changes to individual major structural components are cumulative over time from the date of this CDP authorization.

(2) Alteration (including demolition, renovation or replacement) of less than 50% of a major structural component where the proposed alteration would result in cumulative alterations exceeding 50% or more of a major structural component, taking into consideration previous alterations approved on or after the date of this CDP authorization; or an alteration that constitutes less than 50% increase in floor area where the proposed alteration would result in a cumulative addition of greater than 50% of the floor area, taking into consideration previous additions approved on or after the date of this CDP authorization.

B. Development that consists of any alteration of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction, based on the documented construction bid costs and either an appraisal by a professional property appraiser or County assessor data, to be submitted by the applicant consistent with the time frame in (A)(a)(ii) above.

For the purposes of this definition:

An exterior wall is considered to be altered 50% or more when any of the following occur either above or below grade:

- (a) Exterior cladding and/or framing systems are altered in a manner that requires removal and/or replacement of 50% or more of the elements of those cladding and framing systems, normally considered as linear length of wall.
- (b) Reinforcement is needed for any remaining portions of the wall to provide structural support in excess of 50% of existing support elements (e.g. addition of 50% or more of beams, shear walls, or studs whether alone or alongside the existing/retained elements).
- (c) A previously exterior wall becomes an interior wall as a result of the development.
- (d) On multi-story structures, the extent of alteration to the linear area of the exterior walls on each story shall be determined to determine whether 50% or more of the total exterior walls have been altered.

A floor or roof structure is considered to be altered 50% or more when any of the following occur:

- (a) The roof or floor framing is altered in a manner that requires removal and/or replacement of structural elements (e.g. trusses, joists, rafters) supporting 50% or more of the square footage of the roof or floor.
- (b) The roof or floor structural framing system requires additional reinforcement to any remaining portions of the roof or floor system to provide structural support (e.g. addition of 50% or more of beams, joists, and/or rafters, etc., whether alone or alongside existing/retained system elements).

A foundation is considered to be altered 50% or more when any removal, replacement or reinforcement is done on any of the following:

- (a) 50% or more of the horizontal surface area of a slab foundation.
- (b) 50% or more of the floor area of a structure supported by a pier/post and/or caisson/grade beam foundation.
- (c) 50% or more of a perimeter foundation.
- (d) 50% or more of other foundation types (e.g. piers), or the total alteration where a structure has multiple foundation types.

Major structural component alterations generally do not include changes to roof coverings; replacement of glass or doors in existing window or door

openings; replacement of window or door framing when the size and location of the window/door remains unchanged; repair of roofs or foundations without any change to structural supporting elements; changes to exterior siding; repair, maintenance, and replacement of chimneys; and interior changes to non-structural interior walls and sheetrock, insulation, fixtures, and mechanical, electrical and plumbing elements, except when such interior changes meet the threshold for redevelopment as defined by the market valuation criteria.

C. Provision of Information. The Applicant will submit information regarding the development sufficient to establish the presence or absence of the factors listed in (A) and (B) above.

- b. **Structure Alignment.** The alignment of the proposed new shoreline protective device shall be revised so that the proposed steel sheet pile bulkhead and concrete cap encroaches no further seaward than the existing steel sheet pile bulkhead as depicted on the Existing Bulkhead Plan, Drawing No. S-101, Sheet 4 of 6 dated 3/12/18.
- c. **No Future Seaward Encroachment.** By acceptance of this Permit, the applicant agrees, on behalf of itself and all successors and assigns, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline structure approved pursuant to Coastal Development Permit No. 5-18-0304, as described and depicted on approved, as-built plans, shall result in any encroachment seaward of the authorized footprint of the shoreline structure.
- d. **Color and Texture.** The color and texture of the bulkhead concrete cap, and any armor mat slope protection and exposed concrete caissons will be compatible with the adjacent beach sand, including that:
 - i. these structures will be constructed with concrete that has been colored with earth tones that are compatible with the adjacent beach sand;
 - ii. white and black tones will not be used;
 - iii. the color, contours, and texture will be maintained through-out the life of the structure.

The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director issues a written determination that no amendment is legally required for any proposed minor deviations.

3. **Other Agency Approvals: PRIOR TO COMMENCEMENT OF CONSTRUCTION,** permittee shall provide to the Executive Director a copy of a permit issued by the State Lands Commission, or letter of permission, or evidence that no permit or permission is required. The permittee shall inform the Executive Director of any changes to the project required by the State Lands Commission. Such changes shall not be incorporated into the project until the permittee obtains a Commission amendment to this coastal development permit, unless the Executive Director issues a written determination that no amendment is legally required.

4. **Construction Staging Area.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit a plan for the review and approval of the Executive Director which indicates that the construction staging area(s) and construction corridor(s) will avoid impacts to public access to beach areas to the maximum extent practicable and will fully avoid impacts to sensitive habitat areas.

1. The plan shall demonstrate that:
 - (a) Construction equipment or activity shall not occur outside the staging area
 - (b) Public parking areas shall not be used for staging or storage of equipment, however, the paved parking area adjacent to the Marine Safety Building shall be utilized for staging to the fullest capacity,
 - (c) beach areas shall be minimized as staging areas,
 - (d) The staging area for construction of the project shall not obstruct vertical or lateral access to the beach.

2. The plan shall include, at a minimum, the following components:
 - (a) A site plan that depicts:
 - (1) Limits of the staging area(s)
 - (2) Construction corridor(s)
 - (3) Construction site
 - (4) Location of construction fencing and temporary job trailers, if any

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 final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. **Timing of Construction and Public Access.** By acceptance of this permit, the applicant agrees to minimize adverse impacts to public use of the adjacent beach areas resulting from construction activities as required below.

No construction shall occur during the “peak use” beach season, defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year.

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 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. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to waves, storms, flooding, erosion, and earth movement, all of which will may worsen with future sea level rise; (ii) to assume the risks to the permittee 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.

8. **Future Improvements.** This permit is only for the development described in Coastal Development Permit No. 5-18-0304. 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 this development governed by the Coastal Development Permit No. 5-18-0304. Accordingly, any future improvements to the structures 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. 5-18-0304.
9. **Future Development of the Site.** Future development, which is not otherwise exempt from coastal development permit requirements, or redevelopment of the existing Marine Safety Building on the landward portion of the applicant's property, shall not rely on the permitted seawall for protection from coastal hazards. Any future new development on the site shall be sited and designed to be safe without reliance on shoreline protective devices.
10. **Public Rights.** The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that exist or 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.

IV. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION & DESCRIPTION

The proposed project site is public beach currently developed with the City's Marine Safety Building located approximately 600 feet upcoast of the Municipal Pier at 620 Avenida del Mar in the City of San Clemente ([Exhibits #1 & #2](#)). The Marine Safety Building houses the lifeguard operations and beach maintenance functions of the City of San Clemente. The building, constructed in 1968 is a pre-Coastal Act structure located on a beach parcel owned and maintained by the City. The site is bounded on the inland side by the San Clemente Coastal Trail and by the OCTA railroad tracks. The designated land use in the certified Coastal Land Use Plan is (OS) Open Space. The nearest vertical public access to the shoreline is available via both an at-grade paved railroad crossing and a below-grade underpass at the base of the Pier. Lateral public access is located immediately seaward of the subject structure, except during extreme high tides ([Exhibit #2](#)).

The City is proposing structural exterior repairs/improvements of the Marine Safety Building including replacement of all exterior siding along the northwest and southwest ocean facing sides of the building, removal of a wood catwalk on the ocean-facing part of the building, replacement of 400 sq. ft. at-grade concrete deck, replacement of a 190 sq. ft. wood deck, building foundation repairs consisting of concrete repairs to five existing concrete piles, removal of one timber pile and replacement with a steel pile, concrete repairs to 85 linear feet of concrete beam and installation of 20 linear feet of 8-in. thick concrete wall between existing seawall and existing concrete foundation beam.

In addition to the structural foundation repairs and building exterior repairs, the project includes the construction of a new 220 linear foot long steel sheet pile seawall shoreline protective device buried in the sand with an exposed concrete coping and nylon fabric armor mat filled with concrete extending from the new seawall concrete cap up to the building's foundation for additional foundation protection from wave runup. The applicant is not proposing any treatment of the proposed steel sheetpile seawall or concrete cap to blend it with the natural surroundings.

Prior Commission Action at Subject Site

CDP 5-98-187 - On October 13, 1998, the Commission approved CDP 5-98-187 for the installation of a new 3/8 inch, 75-foot long sheet pile wall in front of the Marine Safety Building. The sheet pile wall was to be driven five feet into the beach. All new and exposed existing sheet pile was to be cut off at beach grade and capped with rubber at the sand line. The Commission imposed one special condition, which required the City to assume the risk of development. The Commission had previously approved an emergency permit for the work on June 5, 1998.

CDP 5-03-121 – On July 19, 2005 the Commission approved CDP 5-03-121 for repairs and renovation of the Marine Safety Headquarters, including interior modifications to the structure, including electrical, plumbing and ADA improvements and the installation of a new steel sheet pile wall inland of the existing sheet pile wall and application of a shotcrete surface extending from the outer sheet pile wall to the exposed foundation of the building.

B. STANDARD OF REVIEW

The proposed development is within the City of San Clemente, an uncertified jurisdiction. The standard of review for the project is therefore the Chapter 3 policies of the Coastal Act. The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment in October 1995. In 2018, The Commission certified a major update to the Land Use Plan for the City of San Clemente. The certified Land Use Plan policies may be used as guidance.

C. SHORELINE HAZARDS

Section 30235 of the Coastal Act states, in pertinent part:

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.

City of San Clemente Certified Land Use Plan Policies (as guidance):

HAZ-8 Public Non-conforming Facilities. *Publicly owned facilities that are existing, legal, non-conforming, and coastal dependent uses, such as public access improvements, restrooms, and lifeguard facilities, on the beach area may be maintained, repaired/and/or replaced as determined necessary by the City. Any such repair or replacement of existing public facilities shall be designed and sited to avoid the need for shoreline protection to the extent feasible.*

HAZ-9 Shoreline Development and Marine Safety. *New permanent structures shall not be permitted on the sandy beach with the exception of the proposed redevelopment of the City's Marine Safety Headquarters building and coastal dependent uses. Any proposed relocation or redevelopment of the City's Marine Safety Headquarters on the sandy beach shall be located as far landward as feasible and shall be designed to avoid the need for future shoreline protection to the maximum extent feasible. Any CDP authorizing redevelopment of the Marine Safety Headquarters shall require any future shoreline protection device to be sited and designed to mimic natural shoreline features where feasible, and to require a new CDP for any future shoreline protective device for the structure.*

The proposed project involves development on the sandy beach. The City (applicant) is proposing structural exterior improvements and foundation repairs to the 50-year old Marine Safety Building, and a new seawall shoreline protective device seaward of two existing seawalls located approximately 15 ft. seaward of the building's west exterior wall. The east side (landward side) of the building has a concrete slab-on-grade and conventional shallow spread footings and grade beams, the west side (ocean facing) side of the building is supported with precast concrete piles, reinforced concrete pile cap beams and elevated structural slabs.

Proposed building foundation repairs include:

- Concrete repairs to five (5) exposed concrete piles using fiberglass jackets

- Removal of one existing timber pile and replacement with a steel pile
- Concrete repairs to approx. 85 linear feet of exposed concrete beam
- Installation of a new 20 linear feet long, 8” thick concrete wall between existing bulkhead and concrete foundation beam

Proposed Sheet Pile Bulkhead/Seawall work:

- Placement of approx. 220 linear feet of steel sheet pile bulkhead +9.6 ft. (MLLW) tall with a 2’4” wide concrete cap, in front of, and aligned with existing bulkhead
- Removal of approx. 4,250 sq. ft. of filter fabric and placement of concrete armor mat between the bulkhead and building foundation wall under the building

[Exhibit #3](#) contains the full plans for the proposed building repairs and [Exhibit #4](#) contains the plans for the proposed new shoreline protective device.

Due to its proximity to the Pacific Ocean, the building is regularly subject to wave up-rush ensuing from seasonal high tides and storm events. In the permit application, City staff recognizes that there is significant potential for facility damage from winter storms if current protective measures are not maintained. Photographs depicting existing conditions at the subject site are included as [Exhibit #5](#). Development in such a location is inherently risky. The structure is currently built up to the most inland extent of the City owned beach parcel. At this particular site, the OCTA railroad tracks and coastal trail (inland of the railroad tracks along this stretch of beach) would preclude significantly moving the Marine Safety Building inland, see [Exhibit #2](#). Moving the building at this location further inland would require encroachment into the OCTA railroad right-of-way, which may not be a feasible option. To completely avoid constant wave activity, relocation would most likely have to occur inland of the railroad corridor and the rock revetment that protects the railroad corridor.

Nonetheless, as currently sited, the existing structure is subject to hazards from wave uprush and flooding during the winter storm season. The CDP application characterizes the project as “structural repairs and accessibility improvements” thus, the applicant did not provide technical analysis reports such as a coastal hazards report including sea level rise analysis. Upon request, the City provided *Marine Safety Building Structural Condition Assessment Report* dated November 14, 2016 by TranSystems and Duncan Engineering, the report states:

“The goal of the assessment is to identify repairs necessary to extend the building’s life another 5 years while a replacement building is designed and constructed.”

The report includes an assessment of building conditions and repair recommendations and concludes that the proposed “repairs” are necessary to protect the existing structure from wave attack as the existing caissons are exposed and vulnerable to lateral loads. The City also provided a 2004 report by Coastal Frontiers Corporation titled *Coastal Engineering Analysis for Marine Safety Building Seawall*. This was the same report previously provided to the Commission for consideration in the 2005 approval of a new seawall inland of the existing seawall approved under CDP 5-03-121. No updated technical reports were provided. This third seawall component of the subject application, relies on the analysis and recommendations from this 2004 report. The height

of the proposed new seawall is +9.6 ft. (MLLW), the same height as the wall approved under CDP 5-03-121, in that case, the seawall was proposed and approved inland of the existing seawall. The City now proposes a third completely new +9.6 ft. (MLLW) tall seawall, this time seaward of the existing two seawalls. The new approximately 220 linear ft. long, +9.5 ft. (MLLW) tall seawall will also have a 2'4" wide concrete cap connecting all three seawalls together and continue with a new concrete armor mat between the new seawall and building foundation wall under the building providing "slope protection" to protect the building's foundation from undermining due to wave erosion. However, a completely new seawall that encroaches further seaward cannot be considered "repair" as it is a completely new shoreline protective structure.

In 1998, the Commission approved construction of a 75-foot long sheet pile wall in front of the Marine Safety Building; then in 2005, the Commission approved building foundation repairs (fiber wrap on exposed caissons and a 6" thick concrete wall between existing bulkhead and concrete foundation beam), a new steel sheet pile wall with a concrete cap/cover inland of this existing sheet pile wall and shotcrete visual treatment to the exposed outer seawall. However, according to the City, only the new inland sheet pile wall was constructed and all the other approved work, including the concrete cap, concrete layer between the bulkhead and building foundation and the proposed seawall visual treatment was never implemented. Currently, the steel sheet pile does not have a concrete cap, the seawall steel cap is severely corroded and missing at many locations, posing a public hazard. Photographs of existing conditions are included in [Exhibit #5](#). At the time of that approval, the City's consulting engineers estimated that after these protective measures are implemented, the life expectancy of the building would be another 20 to 30 years or more. However, as all of the approved protective measures were not implemented, erosion continues to threaten the building, necessitating the subject proposed additional "repairs" to extend the building's life another 5 years while a replacement building is designed and constructed.

The Marine Safety Building houses the City's lifeguard operations and was constructed prior to the enactment of the Coastal Act. Based on the findings of the *Marine Safety Building Structural Condition Assessment Report* dated November 14, 2016, building foundation repairs and protection of the foundation from erosion is crucial for the performance of the building; continued undermining and wave run up will cause the foundation to deteriorate and fail. The report also states that the recommended structural improvements and foundation repairs plus new steel sheet pile seawall are necessary to extend the building's stability for 5 years while a replacement building is designed and constructed. As the City is characterizing the proposed projects as repairs and not new development, the City did not provide a full shoreline hazards analysis taking future sea level rise hazards into consideration. As the seawall is proposed as a short-term measure providing protection for 5 years, the design height of the proposed new seawall does not take into consideration long-term sea level rise.

Although the repairs are deemed necessary to protect the existing building from erosion, it is necessary to determine that the proposed project is the least damaging alternative. As proposed, the new sheet pile wall would add to the impacts that are occurring to the beach as a result of the existing structure, such as hindered sand transport, erosion, and beach encroachment. As proposed, the new seawall does not conform to Coastal Act Section 30235 which allows the construction of a seawall to be permitted "when required to serve coastal dependent uses or to protect existing structures in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply." As proposed, the project would protect a structure that existed at the

time that the Coastal Act was enacted, but it is not designed to eliminate or mitigate adverse impacts.

Therefore, the project cannot be approved as proposed. The Commission imposes **Special Condition 1** requiring a redesign of the steel sheet pile seawall and construction of seawall inland of the existing seawall with either removal or cutting the existing seawall(s) down to sand scour level to prevent exposure and public hazard, as the applicant has expressed concern with the amount of excavation, additional temporary impacts and overall work/added costs required to fully remove the existing seawalls at this time. **Special Condition 1** requires the existing seawall(s) to be cut down either to below the beach scour level, or down to bedrock level to reduce beach level exposure; and depending on how low the existing seawall(s) are cut down, if necessary, the new bulkhead will need to be redesigned to take on any additional load currently supported by the existing seawall(s).

Even though the proposed development is intended to provide short-term protection while a new Marine Safety facility can be designed and built, the Commission, must take into account any possible delays in the construction of a new facility and future need for enhancement or reinforcement of the shoreline protective device. Therefore, **Special Condition 1** requires the design of the new bulkhead to be able to accommodate and not preclude any potential future increase in height if deemed necessary.

Furthermore, **Special Condition 2** acknowledges that the shoreline protective device and armoring approved by this CDP results in the extension of the useful life of the existing bulkhead/seawall fronting the Marine Safety Building for a 15-year period after permit issuance, providing an additional 10 years for the siting, design and construction of a replacement building beyond the 5 years anticipated by the City. As conditioned, the project will have no new, additional local shoreline sand supply impacts to the beach at this location. Sand supply mitigation for the proposed new bulkhead/seawall project is not required at this time given that the previously fully-permitted seawall would have had the same impacts for at least the next 15 years. The existing facility contains the City's lifeguard operations directly supporting coastal access and recreation at the beach. **Special Condition 2** also provides that additional re-assessment of impacts to sand supply, public access and recreation and any other relevant coastal resources impacted by the seawall will be required if the seawall remains beyond the initial approved period and if expansion and/or alteration to the existing seawall is proposed or if any significant alteration or improvement is proposed for the existing building. The authorization for the shoreline structure terminates when the Marine Safety Building: (1) is redeveloped as defined in within the special condition; (2) becomes uninhabitable and is demolished or is no longer present; or (3) no longer requires shoreline armoring, whichever occurs first.

Furthermore, **Special Condition 2** reiterates that the alignment of the proposed new shoreline protective device shall be revised so that the proposed steel sheet pile bulkhead and concrete cap encroaches no further seaward than the existing steel sheet pile bulkhead; that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline structure shall result in any encroachment seaward of the authorized footprint of the shoreline structure; and requires approved structures to be constructed with concrete that has been colored with earth tones that are compatible with the adjacent beach sand to address adverse impacts to visual resources.

In addition, according to the exhibit depicting the approximate high tide and approximate mean high water lines in relation to the existing seawall, included as [Exhibit #6](#) of the staff report, the area of work during project construction, extends beyond the approximate high tide line. Thus, the Commission imposes **Special Condition 3** requiring the applicant provide a copy of a permit issued by the State Lands Commission, or letter of permission, or evidence that no permit or permission is required addressing any potential public trust issues at the subject site.

Only as conditioned can the proposed development be found to be consistent with Section 30235 of the Coastal Act.

D. PUBLIC ACCESS AND RECREATION

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)(2) of the Coastal Act states, in pertinent 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: (2) adequate access exists nearby

Section 30212(b)(4) of the Coastal Act states:

The construction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not seaward of the location of the former structure.

Section 30221 of the Coastal Act states:

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

City of San Clemente Certified Land Use Plan Policies (as guidance):

PUB-63 Mitigation for Development on the Beach. *The impacts of development on sandy beaches, including impacts to public recreation should be fully mitigated.*

***PUB-64 Recreational Opportunities.** Protect, and where feasible, expand and enhance recreational opportunities in the Coastal Zone.*

***PUB-68 Visitor-serving Public Facilities.** Protect, promote, and provide sustainably designed recreational and visitor-serving public facilities in San Clemente's Coastal Zone.*

***PUB-80 Marine Safety.** Provide an appropriate level of Marine Safety personnel and facilities for the protection of beach users.*

Section 30604(c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3, including 30212 identified above. The proposed project site is located between the first public road and the sea, on the sandy beach seaward of the railroad tracks. As described previously, the proposed project consists of foundation repairs and a new seawall seaward of the existing seawall to protect the Marine Safety Building which serves residents and public beach visitors alike.

Access to the shoreline in the area of the proposed project is currently available via the Municipal Pier access point, which provides both an at-grade paved railroad crossing and a below-grade underpass. Lateral access is provided directly seaward of the Marine Safety Building.

Construction Phase Impacts

Construction impacts, such as obstruction of lateral or vertical access to the shoreline with trucks and/or equipment, can affect the public's ability to access the beach and recreate on it. Construction related impacts can be partially alleviated by limiting construction work to the off-peak season (fall and winter) when beach use by the public is typically low. With this in mind, the City intends to initiate construction in the off-peak season. Therefore, to guarantee that public access is maintained during peak beach use season, the Commission imposes **Special Condition 5**. This special condition requires construction to occur prior to the Memorial Day weekend and/or following the Labor Day weekend. Furthermore, lateral access across the beach would still be available inland of the Marine Safety Building along the San Clemente Beach Trail located between the building and the OCTA railroad tracks along this stretch of beach (between the Corto Lane beach access way and the Pier access way), see [Exhibit #2](#).

Construction staging impacts for a project on the sandy beach can affect the public's ability to access the beach and recreate on it and therefore should be avoided when possible or minimized where avoidance is not possible. Proposed Marine Safety Building Repair project plans sheet S-011 included as part of [Exhibit #3, page 5 of 10](#), includes a location map depicting a proposed 50' x 20' staging area and a 40 cu. yd. trash bin superimposed on an aerial photograph of the vicinity between the Marine Safety Building and the Municipal Pier. From this photographic location map, it appears that the proposed 50' x 20' construction staging area and adjacent 40 cu. yd. trash bin are located on the sandy beach, immediately south of a paved parking lot area utilized by Marine Safety and Fisherman's Restaurant staff. This is a significant amount of dry sandy beach on a popular beach directly adjacent on a beach fire pit and a playground swing to be occupied by a construction staging area. Therefore, consideration should be given to use, at minimum, a portion of the Marine Safety Building's paved parking surface for construction staging purposes to minimize impacts to

public access and recreation. In order to avoid adverse construction-related impacts upon public access and recreation, **Special Condition 4** requires the submittal of a project construction staging plan to ensure that the staging site minimizes adverse public access and recreation impacts to the beach or coastal resources to the maximum extent practicable.

Post-Construction Impacts

After construction, the project would indeed result in additional adverse impacts to public access beyond those which presently exist. The proposed new shoreline protective device (new seawall and concrete cap) would result in an approximately 1.5 to 2.5 foot seaward encroachment across the proposed 220 linear foot seawall from the location of the existing seawall which is already approximately 15 feet from the ocean facing wall of the Marine Safety Building. This would push the public farther into the surf zone, thus making lateral access in front of the building much more difficult during high tide.

Special Condition 1 and Special Condition 2 requiring revised plans to redesign the project and place the proposed new seawall inland of the existing seawalls and cutting down the exposed steel pile seawall down to scour level or bedrock level would result in a modest gain of approximately 2-3 feet of beach area in front of the building. Therefore, as conditioned to avoid adverse impacts, the Commission finds the proposed development consistent with the public access and recreation policies of Chapter 3 of the Coastal Act.

E. SCENIC AND VISUAL RESOURCES/DEVELOPMENT: MINIMIZATION OF IMPACTS

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.

City of San Clemente Certified Land Use Plan Policy (as guidance):

VIS-1 Visual Character and Aesthetic Resources Preservation. *Preserve the visual character and aesthetic resources of the City and where feasible, enhance scenic and visual qualities of the coastal zone, including coastal bluffs, visually significant ridgelines, and coastal canyons, open spaces, prominent, mature trees on public lands, and designated significant public views. Where feasible, enhance and restore scenic and visual qualities of the coastal zone, including those to and along the ocean and coastal bluffs. Where protection of visual character and aesthetic resources is not feasible, impacts shall be mitigated.*

The above-cited Coastal Act policy is designed to protect visual qualities of coastal areas as a resource of public importance, to protect views to and along the ocean and scenic coastal areas, and for new development to be visually compatible with the character of surrounding areas, including the protection of special communities/neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses. Furthermore, the City's LUP, used as guidance, includes the aforementioned policy that provides for preservation of and where feasible, the restoration of scenic and visual qualities of the coastal zone. Additionally, LUP Figure 6-1 identifies the stretch of beach along the subject site as an important public view corridor from a vantage point from the Municipal Pier inland.

The proposed development is the construction of a new steel sheet pile seawall with a concrete cap. The steel sheet pile portion of the seawall is anticipated to be buried in the sand and only the 2' 4" thick concrete cap exposed above sand level along with a new armor mat slope protection between the new seawall and the building's foundation wall for additional foundation protection from wave runup. The applicant is not proposing any treatment of the proposed steel sheetpile seawall or concrete cap to blend it with the natural surroundings.

The project is located on a beach lot north of the Municipal Pier. The site is located seaward of the OCTA railroad tracks and is highly visible from public vantage points. Because the proposed seawall repair will affect views inland from the shoreline and from a public access point, any adverse visual impacts must be minimized. Consequently, it is necessary to ensure that the development will be designed to protect views to and along the beach area and to minimize the alteration of existing landforms.

The Commission imposes **Special Condition 2**, which in addition to limiting the authorization of the proposed new seawall to 15 years, also addresses any additional adverse impacts the project would have to visual resources. **Special Condition 2** requires the concrete components of the proposed shoreline protective device such as the concrete cap, the armor mat slope protection between the new seawall and the building's foundation wall, and the exposed concrete caissons be given a sand colorization treatment that would camouflage these protective devices in earth tones to match the natural appearance of the surrounding beach.

As conditioned, the Commission finds the project consistent with the visual resource protection policies of Section 30251 of the Coastal Act.

F. MARINE RESOURCES/WATER QUALITY

Section 30230 of the Coastal Act states, in pertinent part:

Marine resources shall be maintained, enhanced, and where feasible, restored.

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, in pertinent part:

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.

City of San Clemente Certified Land Use Plan Policies (as guidance):

RES-60 Minimization of Water Quality Impacts During Construction. *Development shall minimize the land disturbance activities of construction, especially in erosive areas to avoid detrimental water quality impacts caused by increased erosion or sedimentation. Development shall minimize pollution of runoff by construction chemicals and materials.*

RES-61 Construction Measures. *The City shall require that construction be conducted with provisions for the control of sediment transport and debris originating at the construction site...*

The City of San Clemente proposes to carry out repairs to the Marine Safety Building and build a new seawall adjacent to coastal waters. Although the proposed project will not have direct post-construction impacts on coastal waters, construction impacts have the potential to negatively affect water quality. Storage or placement of construction materials, debris, or waste in a location which may be discharged into coastal waters would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. In order to avoid adverse construction-related impacts upon marine resources, **Special Condition 6** outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. For example, requiring all stock piles and construction materials to be covered, enclosed on all sides, located as far away as possible from drain inlets and the water. This condition ensures that construction activities will not have a negative impact on coastal resources. Additionally, **Special Condition 4** requires submittal of a revised construction staging plan that takes advantage of the existing paved parking surface adjacent to the Marina Safety Building for staging or storage of equipment to avoid as much as possible stored stock piles and construction equipment and materials from coming in contact with the sand.

As discussed above, the proposed project will not result in post-construction impacts on water quality. During construction, special precautions will be followed to ensure that materials are stored properly and debris is disposed of at an appropriate location. Only as conditioned for appropriate construction practices does the Commission find that the proposed development is consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

G. LOCAL COASTAL PROGRAM (LCP)

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program that conforms with Chapter 3 policies of the Coastal Act. The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The City re-submitted on June 3, 1999, but withdrew the submittal on October 5, 2000. In 2018, the Commission certified a major update to the Land Use Plan for the City of San Clemente.

The proposed development is consistent with the policies contained in the certified Land Use Plan. Moreover, as discussed herein, the development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, 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 City of San Clemente is the lead agency for purposes of CEQA compliance. The City determined this project is categorically exempt from CEQA as Class 2 under Section 15302: replacement or reconstruction of an existing structure located on the same site with substantially the same purpose and capacity. As such, the City determined the project is exempt from CEQA's requirements regarding consideration of mitigation measures and alternatives. The Commission, however, has conditioned the proposed project in order to ensure its consistency with Coastal Act and CEQA requirements, particularly regarding public access and resource protection. These special conditions are: 1) Submittal of Revised Final Bulkhead Plans 2) Shoreline Structure Authorization Terms; 3) Other Agency Approvals; 4) Construction Staging Plan; 5) Timing of Construction and Public Access; 6) Construction Phase BMPs; 7) Assumption of Risk, Waiver of Liability and Indemnity; 8) Future Improvements; 9) Future Development of the Site; and 10) Public Rights.

There are no other feasible alternatives or mitigation measures available which will lessen any significant adverse impact the project would have on the environment. 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.

Appendix A - Substantive File Documents

City of San Clemente Land Use Plan

CDP 5-98-187 (City of San Clemente)

CDP 5-03-121 (City of San Clemente)

“City of San Clemente, Coastal Engineering Analysis for Marine Safety Building Seawall,” prepared by Coastal Frontiers Corporation, dated January 2004

“Marine Safety Building Structural Condition Assessment Report,” prepared by TranSystems Corporation and Duncan Engineering, dated November 14, 2016

“San Clemente Marine Safety Building Bulkhead Repairs Alternative Analysis,” prepared by TranSystems, dated August 23, 2018