

CALIFORNIA COASTAL COMMISSION

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W12b

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STAFF REPORT: REGULAR CALENDAR

Application No: 5-18-0380

Applicant: S.M. Star, LLC

Agent: Gaines and Stacey, LLP

Location: 423-429 Ocean Avenue, Santa Monica, Los Angeles County

Project Description: Remodel, partial demolition and addition, and reduction in the number of units for an existing two-story, three-building 16-unit apartment complex and conversion to a 12-unit condominium development. The north and south buildings are proposed to be remodeled, including construction of three-story additions and new foundations, would be 33 feet high, and would maintain the original facades. The east building is proposed to be demolished and only the front façade will be maintained, and the new building would be four stories and 43 feet high. A subterranean parking garage with 24 spaces would be constructed, and three ground-level guest parking spaces onsite would be developed.

Staff Recommendation: Denial

SUMMARY OF STAFF RECOMMENDATION:

The applicant proposes a substantial remodel and reduction in the number of units for an existing apartment complex, consisting of three buildings and 16 units, to create a 12-unit condominium complex in the City of Santa Monica. The project involves a partial demolition of the three existing apartment buildings (referred to as the north, south, and east buildings), and construction of three new buildings that would be attached to the facades of the existing buildings. The project would result in a 31,899 sq. ft. development with 12 two and three-bedroom condominium units that range in size from 920 sq. ft. to 3,013 sq. ft. Two of the 12 units would be designated affordable

condominium units, in compliance with the City's affordable unit requirements for new residential development.

The proposed development is inconsistent with Sections 30250 and 30253 of the Coastal Act, which require new development to be concentrated in existing developed areas where it can be accommodated without adverse impacts to coastal resources, as well as the minimization of energy consumption and vehicle miles traveled. The project site is located one block inland from Pacific Coast Highway, at the top of a palisade in an area of Santa Monica zoned for high-density development under the City's Land Use Plan, where numerous other multi-family developments are located, and where sea-level rise hazards are reduced due to the site's elevation. Despite the appropriateness of this location for high-density development, coastal access, and adequate public services, the proposed project would eliminate four existing rental housing units, thereby increasing development pressure in other parts of the City, and increasing the likelihood that future development will be sited in coastal areas that cannot adequately or safely accommodate it, such as low-lying beach-fronting areas and undeveloped areas. The removal of housing units occurring on a case-by-case basis through several coastal development permit applications in the Los Angeles County coastal zone could have cumulative impacts to coastal resources. Finally, the proposed project has the potential to set a precedent of development in the area and to prejudice the ability of Santa Monica to develop an LCP that is consistent with Chapter 3 Coastal Act policies.

The project, as proposed by the applicant, includes demolition of the majority of the east building (toward the rear of the lot), which will be replaced with a new building consisting of four condominium units. The Commission's denial of the proposed project is consistent with Section 30612 of the Coastal Act, as the preponderance of the evidence demonstrates that retention of that structure (in fact, all three structures) is feasible, as the condition of the buildings is fair and there is no evidence that the buildings are uninhabitable or are located in a hazardous area that is unsafe for development. In addition, it is also feasible to renovate the existing structures in a manner that would preserve the existing number of residential units on site.

Accordingly, staff recommends that the Commission deny the proposed project.

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EXHIBITS

[Exhibit 1 –Vicinity Map/Project Site](#)

[Exhibit 2 – Project Plans](#)

[Exhibit 3 – Current Apartment Configuration](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 5-18-0380 proposed by the applicant.*

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit 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 denies a coastal development permit for the proposed development on the ground that the development as conditioned will not conform with the policies of Chapter 3 of the Coastal Act and will 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 would not comply with the California Environmental Quality Act because) there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION & DESCRIPTION

The subject site consists of a 22,500 sq. ft. parcel that is currently developed with three two-story apartment buildings and a landscaped courtyard. The existing complex totals 17,900 sq. ft. in building area, and contains 16 apartment units. The units consist of one and two-bedroom units with an average size of 1,120 sq. ft. [\(Exhibit 3\)](#). Fifteen parking spaces are currently provided onsite—nine parking spaces are provided at ground level garages at the back of the property, and 6 parking spaces are provided in a subterranean lot.

The applicant proposes a substantial remodel of, addition, and reduction in the number of units to, the existing 16-unit, three building apartment complex to create a 12-units and conversion of the structures to condominium units. The project involves demolition and replacement of one of the three apartment buildings (the east building) and reconstruction and remodel of the other two buildings (north and south buildings). The project will result in a 31,899 sq. ft. development with 12 two and three-bedroom condominium units that range in size from 920 sq. ft. to 3,013 sq. ft [\(Exhibit 2\)](#).

The City of Santa Monica enforces a Condominium Conversion Ordinance, which prohibits the conversion of existing rental units to market-rate condominiums unless “[t]he vacancy factor of rental housing units in the City has exceeded 5 percent of the total rental housing inventory for a period of 90 days prior to the date of approval.” Because the City of Santa Monica rental and

housing market is chronically impacted and there is little to no apartment vacancy rate, under the City's ordinance the existing apartments can be converted to condominiums only if the buildings are demolished and replaced with new construction. However, because the existing apartment complex is a Landmark structure, the historic architectural features of the complex must be preserved, which limits new construction to designs that preserve the historic facades.

The applicant applied to the City for approval to "demolish" the existing apartment buildings and "construct" a new 12-unit condominium development that maintains the historic features of the existing apartment buildings. The north and south buildings toward the front of the lot (423 Ocean Ave. and 429 Ocean Ave., respectively) are proposed to be preserved, and would be temporarily lifted approximately four feet above the ground level and supported with steel flange beams, cross beams, and wood cribbing. The ground under the buildings would be excavated for the expanded subterranean parking garage. Once the subterranean parking garage is expanded to accommodate 24 spaces, the buildings would be lowered onto new foundations that would be placed in the original building footprint. A six-space underground parking garage currently exists onsite, along with the nine nonconforming aboveground garages immediately inland of the rear apartment building, encroaching into the alleyway. Once the buildings are placed onto the new foundations, they are proposed to undergo a restoration and interior remodel. The small apartment units would be remodeled into larger units and a three-story addition would be constructed at the rear end of each building.

In contrast to the preservation of the two front buildings, the majority of the east building toward the rear of the lot (427 Ocean Ave.) would be demolished and replaced with a new building. Only the front façade of the rear building would be preserved and attached to the new structure, which, as proposed, would consist of a new four-story, 43-foot high structure. The footprint of the new building would expand toward the alley, occupying the space of the site that currently contains nine non-conforming above-ground garages.

As mentioned earlier, the current development is listed on the local historic register as a City of Santa Monica Landmark. The development was listed in 2006 as a representative example of the American Colonial Revival architectural style, a designation that extends to the courtyard around which the buildings are situated. This unique designation played a major role in determining the design of the proposed project during the City's environmental review process (which will be explained in more detail later in the report). Ultimately, the design of the new condominium units maintains the historic qualities of the existing improvements, most notably the exterior facades and the central courtyard.

According to the applicant, there have been no affordable units at the property since at least 2002, when the applicant acquired the property. In 2010, the applicant vacated the tenants from all 16 units and, according to the applicant, the apartment complex has not been occupied since. The proposed project provides that two of the 12 new condominium units would be designated affordable units, in purported compliance with the City's affordable unit requirements for new residential development.

B. OTHER AGENCY APPROVALS

The proposed project received a City of Santa Monica Planning Commission approval on June 21, 2017. The City approved “demolition” of the existing three buildings, a 16-unit apartment complex (except for the facades), and construction of a new three and four-story, three building condominium complex that will accommodate 12 units. The City also approved a front setback variance to accommodate the continued use of the central courtyard (identified as a city landmark), and a side-yard variance to accommodate the three-story additions to the north and south buildings. The project also received an approval from the City’s Landmarks Commission.

The Commission certified the City of Santa Monica LUP in 1992. The standard of review for the proposed development is the Coastal Act; however, the certified LUP policies may be used as guidance.

C. DEVELOPMENT

Coastal Act Section 30250(a) states, in part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Coastal Act Section 30253 states, in part:

New development shall do all of the following:

(d) Minimize energy consumption and vehicle miles traveled.

Coastal Act Section 30604 states, in relevant part:

(f) The commission shall encourage housing opportunities for persons of low and moderate income. In reviewing residential development applications for low- and moderate-income housing, as defined in paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code, the issuing agency or the commission, on appeal, may not require measures that reduce residential densities below the density sought by an applicant if the density sought is within the permitted density or range of density established by local zoning plus the additional density permitted under Section 65915 of the Government Code, unless the issuing agency or the commission on appeal makes a finding, based on substantial evidence in the record, that the density sought by the applicant cannot feasibly be accommodated on the site in a manner that is in conformity with Chapter 3 (commencing with Section 30200) or the certified local coastal program.

(g) The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

Policy 4 of the LUP states:

The City of Santa Monica LUP shall encourage the preservation of low and moderate income housing within the Coastal Zone consistent with the Coastal Act policies, contained herein.

Policy 53 of the LUP states:

The City shall comply with the requirements of the Mello act in the replacement of dwelling units located within the Coastal Zone that are occupied by persons and families of low or moderate income.

Policy 54 of the LUP states:

The City shall comply with the requirements of the Mello act in the production of dwelling units located for persons and families of low or moderate income in new housing developments located in the Coastal Zone.

Policy 62 of the LUP states:

Ocean Ave north of California Ave shall accommodate medium density and high density residential uses. Residential development shall provide adequate onsite support and guest parking to prevent adverse impact on public access to the Palisades Park.

Policy 63 of the LUP states (in part):

Development in the high density multiple family residential areas shall not exceed four stories, 45 feet in height, and a unit density of 1 dwelling unit per 900 square feet of parcel area.

Housing Density

Section 30250 of the Coastal Act requires new development to be concentrated in existing developed areas where it can be accommodated without adverse impacts to coastal resources. Section 30253(d) requires new development to minimize energy consumption and vehicle miles traveled. Concentrating development in existing developed areas provides more opportunities for people to live near places they work and recreate, such as the beach, and, thereby, reduces impacts to coastal resources. Impacts to roads and vehicle miles traveled would be reduced by having a more intense stock of housing located closer to employment and recreational opportunities within the coastal zone. Also, by having a higher density in an existing developed area, it places more people in a single location so that public transit service is facilitated, which then again aids in reducing the number of cars on streets and thus reduces impacts to coastal resources and public access. Siting dense development in urbanized areas reduces urban sprawl, and furthermore reduces the pressure to extend development into adjacent undeveloped areas, which may contain sensitive coastal resources.

The certified Santa Monica LUP designates a limited area of the Coastal Zone for high-density housing: the inland side of Ocean Avenue from the City boundary up to approximately Montana Avenue is the only location for high density housing located north of the pier. This is where the

current project is located. Inland of these blocks are low-density housing and single-family residences. In between Montana Avenue and Downtown Santa Monica are several blocks of land designated for medium-density housing. Housing located in Downtown Santa Monica is within and immediately adjacent to areas designated for visitor and/or commercial. South of the pier is Ocean Park, a residential neighborhood with limited land designated for high-density, which can only be located in two locations in the coastal zone: between Nielson Way and the public beach south of Ocean Park, and a small neighborhood inland of the Civic Center along Pico Boulevard. Because the amount of land designated for high-density residential is extremely limited in the Coastal Zone, it is important to site and maintain high-density development where it is appropriate, such as the current project site.

Concentrating residential development in appropriate areas also has cumulative benefits for hazard avoidance policies in Section 30253 of the Coastal Act, which states that new development shall minimize risks to life and property in flood hazard areas, and assure stability and structural integrity and not require the construction of protective devices that substantially alter natural landforms. Maintaining housing density in safe areas assures the stability and structural integrity of such development. On a broader scale, the overall practice of maintaining density in locations at reduced risks from sea level rise will have the net effect of helping to maintain housing stock that is safe from hazards and relieve development pressure in unsafe areas in the long-term, thus carrying out Section 30253's hazards policies on a community-scale.

Additionally, maintaining development in areas that are less likely to be affected by coastal hazards facilitates the protection of coastal resources. As sea levels rise, beaches trapped between the rising seas and the first line of development could be threatened. Often, the first line of development impedes the ability of the beach to naturally migrate inland over time and reduces the sources of sand supply created by erosion that contribute to beach accretion. This process is commonly referred to as "coastal squeeze," and leads to the narrowing and eventual loss of beaches and other shoreline habitats. The City of Santa Monica recognizes this trend in its locally adopted draft LUP (October 2018), stating "by late this century, and assuming the high SLR scenario of 1.67 m, provided by NRC 2012, beach retreat will be obvious everywhere. Without strategic planning, this may lead to economic losses due to reduced recreational visitors, and also to occasional flooding of public coastal facilities and related damages." Though not yet certified by the Coastal Commission, Santa Monica's draft LUP expresses the overall goal of limiting or removing development in hazardous areas and maintaining and protecting beaches for public access.

The loss of beach area from coastal squeeze represents a loss of many coastal resources protected by the Coastal Act, including public access, recreational opportunities and associated economic benefits, habitats and marine resources, scenic and visual qualities of coastal communities. Coastal squeeze also presents challenges for carrying out the public trust doctrine, and presents a significant environmental justice issue if the general public loses its ability to access the shore. By maintaining density in safe, inland locations, development pressure along the shoreline could be lessened, making the implementation of solutions to coastal squeeze (i.e., adaptation planning to relocate development to less vulnerable locations inland) more feasible in the long term. It would also increase the likelihood of successful preservation of the coastal resources associated with the beach, consistent with Sections 30210, 30220, 30240(b), 30251 of the Coastal Act, and uphold statewide and local goals relating to environmental justice, consistent with Section 30013 of the Coastal Act.

Therefore, in sum, the preservation of density at the inland location of this subject permit could help prevent land use pressures that exacerbate sea level rise impacts and the loss of coastal resources. Maintaining the existing housing density or even increasing the housing density in a City with a robust public multi-modal transit system will help to reduce greenhouse gases that contribute to climate change and sea level rise. Although the reduction of density is rather minimal in this case the cumulative effect of reduced densities in areas able to accommodate such density could lead to increased housing in other areas that do not have good public transit thereby increasing reliance on automobiles resulting in the production of more greenhouse gases.

The project site is located in the Palisades Park region of Santa Monica. The subject lot lies along Ocean Avenue between the Georgina Avenue and Marguerita Avenue cross streets. The project site is located approximately 700 feet inland of the beach, and furthermore, is situated on the top of a palisade and approximately 150 feet landward of the palisade edge ([Exhibit 1](#)). Therefore, the project is in an area that is relatively safe from sea level rise hazards in the foreseeable future.

The currently-certified Santa Monica LUP classifies the project site area under “Sub-area 3b - Ocean Avenue North of the Pier.” The LUP provides the following description for Sub-area 3b, which encompasses the project site:

Ocean Avenue north of Wilshire Boulevard is primarily occupied by the high density residential apartment and condominium development for which it was zoned before the residential area north of Wilshire Boulevard, which Ocean Avenue passes through, was studied for downzoning. Building heights are currently limited to three to four stories, but most of the buildings along this portion of the street are four stories or less. However, there are six high-rise apartment and condominium towers ranging from six to sixteen stories. The block between California Avenue and Wilshire Boulevard is occupied by the Miramar-Sheraton Hotel. From Wilshire Boulevard southward, Ocean Avenue is developed with a mix of commercial office buildings, hotels and motels, and several residential apartment buildings.

As the LUP describes, Sub-area 3b was zoned with the intention to accommodate high-density residential apartment and condominium developments. This is apparent along the block in which the project site is located. The lots along the block have been developed primarily with multi-family residences and commercial uses (a convalescent home).

As there are limited parts of Santa Monica’s Coastal Zone where high-density development is appropriate, especially in light of sea level rise, it is important to maintain existing high-density development in areas that can support it, particularly areas that will be resilient to future sea level rise impacts. The proposed project, if approved by the Commission, would result in the loss of four housing units in this high-density area, increasing development pressure in other areas of the City that are more at risk from sea level rise, less equipped to support dense development, and where new development could cause adverse significant or cumulative effects on coastal resources. Siting future dense development in lower-zoned areas would likely have cumulative impacts on community character and public access. With regard to reducing hazards, not siting dense development in areas that can accommodate it may increase pressure to locate development in areas that are prone to hazards, such as lower-elevation areas that are vulnerable to sea level rise hazards. In addition, not siting dense development in appropriate areas increases the pressure to site new

development in adjacent undeveloped wildland areas (i.e. the adjacent Santa Monica Mountains) that could contain sensitive habitat. The R4 zones are intended to concentrate high-density development in a manner that reduces vehicles miles traveled and that reduces impacts to coastal resources.

The following table outlines the development standards of low-density, medium-density, and high-density development, as outlined in the draft Santa Monica LUP update:

Land Use Designation	Development Standard
Low-Density	1 unit/2,000 sq. ft.
Medium-Density	1 unit/ 1,250 sq. ft.
High-Density	1 unit/900 sq. ft.

As stated earlier, the subject site is currently developed with a 16-unit, three-building apartment complex. The subject lot is zoned R4-high density residential development under the certified LUP. In the LUP, development located within the high-density residential zone is limited to 45 feet high, 4 stories, and 1 unit per 900 sq. ft. of lot size. With a lot size of 22,500 sq. ft., the subject lot can support a maximum of 25 units. The existing 16-unit apartment complex is consistent with a medium-density development, which would allow a maximum of 18 units on a 22,500 sq. ft. lot. The applicant proposes to redevelop the subject lot to remove the 16 apartment units and to construct 12 condominium units in its place, a reduction of 4 units. The proposed 12-unit residential development is more consistent with a low-density development (which allows a maximum of 11.25 units on the lot) than with a high-density development (which allows a maximum of 25 units on the lot). The proposed development represents an underutilization of the lot; the lot could easily maintain more units than currently exist, but the project proposes a development that is less dense than what already exists.

In this case, the project site can accommodate up to 25 units. However, the project as submitted by the applicant proposes to remove units in an area that is intended for high-density residential development and only proposes to construct 12 units on the site. The project is essentially proposing a low-density residential development in an area that is intended for and should be reserved for high-density development. Therefore, the project as proposed is not consistent with Sections 30250 and 30253 of the Coastal Act and must be denied.

Affordable Housing

Section 30604(f) and (g) of the Coastal Act direct the Commission to encourage housing opportunities for persons of low and moderate income in the Coastal Zone. If the proposed project is approved, the existing rental units would be changed to for-sale units. Typically, multi-family rental units are more affordable than for-sale condominiums because of the more limited financial commitment they entail. Thus, if approved, the supply of more affordable rental units would be reduced and replaced with for-sale condominium units that typically require a substantial financial investment to occupy. Higher density, multi-family units tend to be more affordable. In addition, the proposed condominium units that are much larger than the existing rental units will by nature be less affordable than the existing smaller units.

In this case, the proposed project includes two condominium units that will be designated as “affordable units.” The City of Santa Monica has an ordinance that requires affordable units to be incorporated into all new housing developments. According to Section 9.64.050 of the Santa Monica Municipal Code, for-sale residential projects that propose between 4 and 15 units are required to provide at least 20% of the total units as ownership units for moderate income households. For this project, the applicant would need to provide a minimum of 2.4 units. The applicant is providing two 2-bedroom units for the proposed development, and has agreed to pay an in-lieu fee to the City for the remaining fraction of a unit (consistent with Section 9.64.070 of the Municipal Code). In this case, because 12 units are proposed, 2 of the units must be affordable. According to the ordinance, if 16 condominiums units were proposed, then 25% of the units must be affordable, which would be 4 of the 16 units.

As stated earlier, all of the existing apartment units were vacated by the owner in 2010, presumably to prepare the site to be redeveloped as a condominium complex. Under the Ellis Act, if more than 5 years have elapsed since rental units were taken off the rental market, the property owner has the ability to re-rent the units at today’s market rate. The existing apartment units were taken off the market in 2010, which was more than five years ago. The applicant therefore has the option to retain all 16 rental units and re-rent them at current market rates. The City’s ordinance relating to the provision of affordable housing units does not appear to apply to existing developments. Thus, retaining all 16 rental units likely would result in no affordable units on the site, because the owner would be free to charge market rates.

If the Commission approves the proposed project, there would be a loss of four housing units (and a loss of 16 rental units). However, two of the 12 proposed new condominium for-sale units would be designated for moderate income households. It is difficult to predict, however, how the loss of four rental units, either viewed individually or in conjunction with similar projects in this area, would impact the availability of affordable housing. Conversely, if the project is denied and the applicant subsequently re-rents the 16 units, there would be no loss of housing density. However, the units could be rented at market rates, with no designated affordable “for-sale” units; what those market rates would be for the existing apartment complex is difficult to predict, but, even in their current state, it is unclear that any of the rental units would be considered affordable. Section 30604 of the Coastal Act directs the Commission to “encourage” the protection of existing and the provision of new affordable housing “opportunities,” and does not dictate the form of affordable housing (e.g., rentals vs. for-sale). Accordingly, the Commission does not have sufficient information to make a determination of consistency with regards to the Coastal Act sections encouraging affordable housing. However, the proposed project is inconsistent with Sections 30250 and 30253 of the Coastal Act and, therefore, must be denied.

D. PUBLIC ACCESS

Coastal Act Section 30252 states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of

servicing the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

The Coastal Commission enforces minimum onsite parking standards for new development in order to protect public beach parking for members of the public who wish to access the coast. Consistent with past Commission action, new multi-family residential developments should provide two spaces per residential unit, plus one additional guest parking space for every three units, which would amount to 27 on-site parking spaces for the project. The applicant has proposed 27 spaces for the project, which complies with the past Commission action. Twenty-four residential parking spaces are to be located in a subterranean garage and three guest parking spaces will be located above ground at the rear of the building. All of the parking will be accessed through the rear alley, which does not provide public parking spaces. In addition, no curb cuts will be created for the project, so public parking along Ocean Avenue will not be adversely impacted by the project.

If the 16-unit apartment complex was retained and remodeled, no additional parking would be required for the project. The project site currently accommodates 15 parking spaces; 9 spaces are located in garages at the rear of the apartment complex and six additional spaces are located in an existing subterranean parking garage. Under the Commission's parking standards, 36 parking spaces would normally be required to support the 16 units. However, the apartment complex was constructed prior to the adoption of the Coastal Act¹, and as such, the nonconforming parking for the structure would likely be grandfathered, as long as the structure is not substantially remodeled or redeveloped.

The applicant has stated that it is infeasible to construct more than 12 condominium units onsite (which would eliminate the density issue) because it would not be possible to provide adequate parking. Although a subterranean garage is already being constructed to support 12 units, the applicant has not provided evidence or a sufficient explanation as to why the garage cannot be excavated further to supply additional parking spaces to support additional units.

Although it cannot be said for certain that the proposed development can accommodate parking for more than 12 condominium units, the proposed parking is sufficient for the 12 proposed units currently proposed and will not impact public parking surrounding the project site. Therefore, the proposed project is consistent with Section 30252 of the Coastal Act. While the proposed project is consistent with 30252 of the Coastal Act, it is inconsistent with other sections of Chapter 3, specifically 30250, and therefore must be denied.

E. COASTAL VIEWS/COMMUNITY CHARACTER

Coastal Act Section 30251 states:

¹ The north and south buildings were constructed in 1936, and the east building was constructed in 1950.

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.

The project site is located approximately 700 feet inland from the beach, and is situated approximately 150 feet landward of the Palisades bluff edge, on the inland side of Ocean Avenue. While there are blue water views along this section of Ocean Avenue, the blue water view directly in front of the project site is mostly obstructed by trees and other large vegetation from Palisades Park, located directly across Ocean Avenue from the project site. The proposed project adheres to the 45-foot height limit established in the certified LUP². Furthermore, the lot is not located where Ocean intersects with one of the perpendicular streets; these intersections form public view corridors to Palisades Park and the Pacific Ocean. Because the project site is not located within a public view corridor, the proposed project does not pose a risk of encroaching into the public view corridors. Therefore, the proposed project will not have an adverse impact on public coastal views in the area.

The area of Ocean Avenue along which the subject site is located is developed primarily with multi-family developments (i.e. apartment complexes, condominium complexes). The heights of the buildings range from 1-story, 15-foot high structures to 4-5 story, 45-foot high structures. The proposed project would result in a three and four story, three-building complex. The north and south buildings would be 33 feet tall, and the east building would be 45 feet tall. The east building has a substantial setback, and submitted view analyses of the project demonstrate that the height of the east building is not visible from the street. Overall, the project as proposed by the applicant does not adversely impact community character or coastal views. Therefore, the proposed project is consistent with Section 30251 of the Coastal Act, but is inconsistent with other Sections of the Coastal Act and therefore, must be denied.

F. ALTERNATIVES

Denial of the proposed project will neither eliminate all economically beneficial or productive use of the applicant's property, nor unreasonably limit the owner's reasonable investment-backed expectations of the subject property. The applicant already possesses a substantial residential development of significant economic value on the property. In addition, alternatives to the proposed development exist. Among those possible alternative developments are the following (though this list is not intended to be, nor is it, comprehensive of all possible alternatives):

1. No Project

The applicant could retain the existing 16-unit apartment complex without any structural renovations that would require a CDP. No changes to the existing site conditions would

² Although the LUP is not the standard of review, it does provide guidance for conformity with the Chapter 3 policies. In this case, the LUP height limit provides guidance for conformity with the Section 30251 with regard to coastal views and community character.

result from the “no project” alternative. As such, 16 rentals units could be maintained on the site. The extent to which these units would be affordable is unclear, as the owner could rent them at market rate (the units are currently empty). However, if rented, the units would likely be more affordable than for-sale condominiums, particularly the proposed condominium units that would be significantly larger than the existing apartments. In addition, concentration of development would not be reduced and thus no adverse impacts to coastal resources would result.

However, under Section 30612 of the Coastal Act, if the Commission denies a permit to demolish a structure, the Commission must find that, based on a preponderance of the evidence, retaining the structure is “feasible.” The project, as proposed by the applicant, includes partial demolition of the existing apartment structures. In particular, a majority of the east building (427 Ocean Ave.) will be demolished and replaced with a new building for condominium units.

The applicant has not submitted a feasibility study to demonstrate that it is not feasible to maintain the current buildings. However, the applicant’s submitted Relocation Plan for the retention of the current buildings’ facades includes a description of the current state of the buildings. According to the Relocation Plan:

We observed all of the exterior and interior features of the building, most recently in September, 2017. The current building condition is fair, stable, and the property and buildings are secured. Break-ins for squatting are an ongoing problem for the owner’ we can see the evidence of this activity, but the exterior fencing and exterior openings were firmly secured when we visited the site. Specifically, the exterior roofing and walls are sound, and there is no evidence of recent water damage at ceilings and walls though there is damage from a past roof leak in one area.

The exterior painted cement plaster is sound in appearance. There is substantial paint failure, light and heat damage to wood, and wood deterioration that suggest some past insect (termite) and fungal (dry rot) infestation. There are some areas of siding or trim that have surface divots and cracks. Existing exterior finishes will be retained in the final rehabilitation plan, though there will be areas of patching and replacement due to condition of wood components.

The above description implies that although there is some damage to the buildings after years of lying vacant and the age of the structures, the overall building condition is fair. The applicant has not demonstrated that the building is in a severely dilapidated state, nor has the applicant provided a municipal order to tear down the building. The project site is also not located in an inherently hazardous area (i.e. ocean-fronting, bluff-backing); therefore, there is no demonstrated need to remove the building for public safety concerns. The fact that the applicant proposes to lift and retain the front two structures demonstrates that it is feasible to retain these two structures. Only the rear structure (the east building) is proposed to be demolished, and the Relocation Plan indicates that the “current building condition is fair and stable” and therefore, retention of the structure is feasible. The Commission is under no obligation to approve demolition of the rear structure, consistent with Section 30612 above, based on available information.

While the City considers the project to be a demolition project, the project plans (**Exhibit ___**) show the total length of walls for the three buildings that are proposed to be removed for the project. The entire rear garage and a majority of the east building (427 Ocean Avenue) would be demolished, with 424 linear feet of exterior walls proposed to be demolished. That is approximately 40 percent of the total linear feet of exterior walls for the three buildings, which has 1,055 linear feet of exterior walls. The north and south buildings (423 and 429 Ocean Avenue, respectively) are to be kept almost completely intact, with just a small rear exterior wall being removed. These buildings are proposed to be lifted in place to allow excavations for the subterranean parking garage (the buildings will not be taken apart during the process). The buildings will then be reset on new foundations in the original footprint and a third story addition would be constructed. Thus, the north and south buildings will be retained in almost their entirety—the buildings are not being taken apart and are maintaining their original building materials.

In sum, the preponderance of evidence demonstrates that maintaining the current structure is feasible. The applicant is not limited to redeveloping the subject lot with condominium units; the applicant could choose to retain the existing apartment complex and re-rent the units. The applicant has not provided evidence that the current buildings are in such a state of disrepair that it would be infeasible to retain them.

2. Renovating the Site to Convert Apartment Building to 16-unit Condominium Building

The applicant could renovate the existing building in a manner similar to the current proposal, except provide 16 condominium units instead of 12 units. This approach would result in the provision of four affordable units pursuant to the City's regulations, as opposed to the two affordable units currently proposed. The applicant has stated that it cannot provide sufficient parking for a 16-unit apartment complex. The applicant is currently proposing 27 parking spaces for the proposed 12-unit condominium building; an additional nine spaces would be required for a 16-unit structure. However, the applicant has not provided any evidence to support its claim that additional parking is not feasible, nor has it explained why it is not possible for the currently proposed subterranean parking garage to be excavated deeper to provide additional parking.

This alternative would result in the loss of 16 rental units because the existing apartment complex would be replaced by 16 condominium units. Though housing density would be maintained in this area, and coastal resources impacts discussed above likely avoided, this alternative would mean that more affordable rental units would be replaced by for-sale condominiums, which could adversely impact affordable housing availability in this area. However, any impacts to affordable housing would be mitigated by the requirement, in the City's regulations, that the applicant provide at least four affordable housing units as part of the 16-unit condominium complex. Thus, this alternative would not necessarily be inconsistent with Section 30604(f) and (g), which direct the Commission to encourage the protection of existing and the provision of new affordable housing opportunities.

In conclusion, alternatives to the proposed project exist that would minimize impacts to coastal resources, concentrate development in appropriate areas that can support it, and encourage the provision of affordable housing opportunities.

G. LOCAL COASTAL PROGRAM (LCP)

Coastal Act section 30604(a) states that, prior to certification of a local coastal program (“LCP”), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Land Use Plan (LUP) for the City of Santa Monica was effectively certified in October, 1991, and the City is currently in the process of updating its LUP. The City has not at this time prepared an Implementation Plan that has been certified by the Coastal Commission. Therefore, the standard of review for proposed development in Santa Monica is the Chapter 3 policies of the Coastal Act, although the LUP may be used as guidance.

The proposed development is not consistent with Chapter 3 of the Coastal Act, particularly Sections 30250 and 30253. The project fails to maintain or concentrate development in appropriate areas that can accommodate it. Removing housing units in an area designated high-density residential in the LUP, and is likely to be protected from future sea level rise impacts, could set a precedent for future development in this area that would encourage development in other areas of the City that are not well-equipped to support high-density development, nor likely to be resilient from future sea level rise impacts. Although housing density is a larger issue that should be addressed by the City through its Local Coastal Program, a proposal that reduces housing density in the manner currently proposed could prejudice the City’s ability to prepare a LCP that is consistent with Chapter 3 of the Coastal Act.

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 Santa Monica is the lead agency for California Environmental Quality Act (CEQA) purposes. The project was determined by the City to require an Environmental Impact Report (EIR). A Draft EIR was subsequently prepared in November of 2014. The EIR examined the potential impacts of the chosen alternative, which was to demolish the existing apartment complex and construct a modern 13-unit condominium project with subterranean parking. The EIR identified potential impacts to historic resources as a result of the project. In response to the historic resource concerns, the applicant opted to re-design the project. The applicant revised the project to retain the primary facades of the original structures. An errata was prepared for the EIR to address the new alternative, which was ultimately selected as the preferred alternative.

As described above, the proposed project would have adverse environmental impacts. There are feasible alternatives or mitigation measures available, such as updating and improving the site to continue to serve as a 16-unit residential structure, or renting out the existing apartment complex. Therefore, the proposed project is not consistent with CEQA or the policies of the Coastal Act

because there are feasible alternatives, which would lessen significant adverse impacts that the proposed project would have on the environment. Therefore, the Commission denies the proposed project because of the availability of environmentally preferable alternatives.

In any event, CEQA does not apply to private projects that public agencies deny or disapprove. Pub. Res. Code § 21080(b)(5). Accordingly, because the Commission denied the proposed project, it is not required to adopt findings regarding mitigation measures or alternatives.

Appendix A - Substantive File Documents

- Certified Santa Monica Land Use Plan (1992); City of Santa Monica Planning Commission Approval, June 21, 2017; City of Santa Monica Landmark Approval,