

**CALIFORNIA COASTAL COMMISSION**

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



# W8a

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## STAFF REPORT: CONSENT CALENDAR

**Application No.:** 5-17-1045

**Applicant:** Steven, Marc and Michele Bohbot, The Standard Oil Investment Group

**Agent:** Alexandre Salice

**Location:** 938 Palisades Beach Rd., Santa Monica, Los Angeles County

**Project Description:** Demolish existing 1,416 sq. ft. single family residence and construct a 39 ft. high, 3-story, 5,712 sq. ft. single-family residence and construct a pool with a total of 105 cubic yards of grading on a 5,512 sq. ft. beachfront lot.

**Staff Recommendation:** Approval with conditions

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### SUMMARY OF STAFF RECOMMENDATION

The applicants propose to demolish an existing 1,416 sq. ft. single-story single-family residence, and construct a 39 ft. 3 in. high, 5,712 sq. ft. three-story single-family residence with attached two-car garage and two additional on-site parking spaces and swimming pool on a beachfront lot, immediately adjacent to a public beach and approximately 100 ft. from two public parking lots. The proposed project raises issues regarding hazards concerning beach-front development, water quality, and compatibility with the existing character of the area.

Commission staff is recommending **APPROVAL** of the proposed project with 12 special conditions relating to: 1) Submittal of Revised Final Plans; 2) Final Plans Conforming to Geotechnical Recommendations; 3) Landscaping – Drought Tolerant, Non Invasive Plants; 4) Bird Strike Prevention; 5) Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris; 6) Construction Staging Plan; 7) Water Quality Standards; 8) Assumption of

Risk, Waiver of Liability and Indemnity; 9) Future Development; 10) No Future Shoreline Protective Device; 11) Deed Restriction; 12) Public Rights.

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### EXHIBITS

[Exhibit No. 1 – Location and project site](#)

[Exhibit No. 2 – Aerial Photograph](#)

[Exhibit No. 3 – Site Plan](#)

[Exhibit No. 4 – Elevation Plan](#)

[Exhibit No. 5 – Building Section Plan](#)

[Exhibit No. 6 – Foundation Plans](#)

## I. MOTION AND RESOLUTION

### Motion:

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

Staff recommends a **YES** vote. Passage of this motion will result in approval of all of the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

### Resolution:

*The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the 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 Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit final plans for the proposed development. The final plans shall be in substantial conformance with the plans submitted with this application by Salice Architects, Inc., dated June 22, 2018 and by 3S Prime Engineering, Inc., dated October 22, 2018, and shall be subject to the review and written approval of the Executive Director, and shall include:
  - A. A plan note stating that any development, including landscaping and fencing, is prohibited in the leased state tides seaward of the western property line.
  - B. A view corridor a minimum of 4 ft. wide shall be created in the north and south side yards of the subject site. All proposed landscaping in this yard area shall be maintained at a height of three ft. or lower (including raised planters) to preserve views from the street toward the ocean. All landscape materials within the identified side yard setbacks shall be species with a growth potential not to exceed three ft. at maturity.
  - C. Any fencing or gates within the side yard setbacks shall permit public views and have at least 75 percent of its surface area open to views.
  - D. A plan note stating that drainage of the swimming pool onto the beach is prohibited.

The permittee shall undertake the 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 Coastal Commission approved amendment to this coastal development permit amendment unless the Executive Director determines that no additional amendment is legally required.

#### 2. **Final Plans Conforming to Geotechnical Recommendations**

- A. By acceptance of this permit, the applicants agree that all final design and construction plans shall be consistent with all recommendations contained in *Updated Soils Engineering Investigation Proposed Single Family Residence 938 Palisades Beach Road*, by SubSurface Designs, Inc., dated October 9, 2017. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, for the Executive Director's review and approval, two full sets of plans with evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all the recommendations specified in the above-referenced report.
- C. 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 unless the Executive Director determines that no amendment is legally required.

- 3. Landscaping - Drought Tolerant, Non Invasive Plants.** By acceptance of this permit, the applicants agree that vegetated landscaped areas shall consist of primarily native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>).

**4. Bird Strike Prevention**

- A. Ocean-front deck railing systems, fences, screen walls and gates subject to this permit shall use materials designed to minimize bird-strikes with the deck railing, fence, or gate. Such materials may consist, all or in part, of wood; wrought iron; frosted or partially-frosted glass, Plexiglas or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or Plexiglas shall not be installed unless they contain UV-reflective glazing that is visible to birds or appliqués (e.g. stickers/decals) designed to reduce bird-strikes by reducing reflectivity and transparency are also used. Any appliqués used shall be installed to provide coverage consistent with manufacturer specifications (e.g. one appliqué for every 3 ft. by 3 ft. area) and the recommendations of the Executive Director. Use of opaque or partially opaque materials is preferred to clean glass or Plexiglas and appliqués. All materials and appliqués shall be maintained throughout the life of the development to ensure continued effectiveness at addressing bird strikes and shall be maintained at a minimum in accordance with manufacturer specifications and as recommended by the Executive Director.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit final revised plans showing the location, design, height and materials of fences, screen walls and gates for the review and approval of the Executive Director. Said plans shall reflect the requirements of this special condition.
- C. The permittee shall undertake development in accordance with the approval 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. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris**

- A. The permittee shall comply with the following construction-related requirements:
- (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to water, wind, rain, or dispersion;

- (2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
  - (3) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
  - (4) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
  - (5) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.
- B. Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:
- (1) The applicants shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These 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. It shall be located as far away from the receiving waters and storm drain inlets as possible;
  - (2) The applicants shall develop and implement spill prevention and control measures;
  - (3) The applicants shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50-ft. away from a storm drain, open ditch or surface water; and
  - (4) The applicants shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.
- 6. Construction Staging Plan.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit for review and approval of the Executive Director a construction staging plan that does not utilize any public sidewalks, parking lots, or public streets for construction staging areas. The construction staging shall not take place on any sandy areas or beach.
- 7. Water Quality Standards.** With the acceptance of this permit the applicants agree to comply with all applicable City of Santa Monica water quality requirements as required under the City's Municipal Code that are in effect at the time of approval of this permit.
- 8. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from flooding, sea level rise, erosion and wave uprush; (ii) to assume the risks to the applicants 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.

- 9. Future Development.** This permit is only for the development described in CDP 5-17-1045. Pursuant to Title 14 California Code of Regulations Section 13250(b) (6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-17-1045. Accordingly, any future improvements to the single-family residence authorized by this permit shall require an additional CDP from the Commission or from the applicable certified local government. In addition, an amendment to CDP 5-17-1045 from the Commission or an additional CDP from the Commission or applicable certified government shall be required for any 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).
- 10. No Future Shoreline Protective Device**
- A. By acceptance of this permit, the applicants agree, on behalf of themselves and all other successors and assigns, that no shoreline protective device(s) shall be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-17-1045 including, but not limited to, the residence, garage and foundations and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or any other coastal hazards in the future. By acceptance of this permit, the applicants agree that, as new development, the proposed project is not entitled to shoreline protection and hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under applicable laws.
- B. By acceptance of this permit, the applicants further agree, on behalf of themselves and all successors and assigns, that the landowner(s) shall remove the development authorized by this permit, including the residence, garage and foundations if: (a) any government agency has ordered that the structures are not to be occupied due to coastal hazards, or if any public agency requires the structures to be removed; (b) essential services to the site can no longer feasibly be maintained (e.g., utilities, roads); (c) the development is no longer located on private property due to the migration of the public trust boundary; (d) removal is required pursuant to LCP policies for sea level rise adaptation planning; or (e) the development would require a shoreline protection device to prevent a-d above.
- C. In the event that portions of the development fall to the beach or are submerged before they are removed, the landowner(s) shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site and relocated any salvageable portions of the development inland. Such removal shall require a coastal development permit.

- 11. Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have executed and recorded against the parcels governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.
- 12. 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 properties. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the properties now or in the future.

#### **IV. FINDINGS AND DECLARATIONS:**

##### **A. PROJECT DESCRIPTION & LOCATION**

The site is located at 938 Palisades Beach Road (Pacific Coast Highway), north of the Santa Monica Pier, in the North Beach area of the City of Santa Monica ([Exhibit 1](#)). The beachfront lot is zoned R3 (Low Density Multiple Family Residential/Beach Overlay), and the project is consistent with the zoning. The North Beach area provides a broad beach, approximately 850 ft. in width. The subject lot is located within a row of residentially developed lots and public beach parking lots. The North Beach area contains the City's northern sandy beach area, beach clubs, single-family and multi-family residential development. A public pedestrian walkway is located on the sandy beach seaward of the property’s western property line.

The applicants propose to demolish an existing 1,416 sq. ft. single-family residence, and to construct a 5,712 sq. ft., three-story, 39 ft., 3 in. high, single-family residence with a below-grade swimming pool ([Exhibits 3-6](#)). Two parking spaces will be provided in the attached garage and two additional off-street parking spaces will be provided in the driveway. The project is designed utilizing a 24 in. thick concrete slab mat foundation with eight in. thick concrete perimeter stem walls. The stem walls are designed to resist hydrostatic pressure and will be waterproofed by a waterproofing membrane system for below-grade concrete and masonry walls. In addition, a perforated drain pipe will be installed adjacent to the basement walls, and will be wrapped with gravel and filter fabric to capture infiltrating water before it seeps to the foundation and slab. The home’s foundation does not include any piers or other foundation elements deeper than the proposed mat foundation. The swimming pool will be founded on its own independent six in. thick self-supporting foundation system. The seaward wall of the pool goes to a depth of approximately 11 ft. below grade ([Exhibit 6](#)). The proposed



project received an approval in concept from the City of Santa Monica Planning Department on December 2, 2017.

The proposed project is consistent with the City's 40-ft. maximum height limit and Palisades Bluff view shed requirements (see 9.04.08.62.060) ([Exhibits 4 and 5](#)). **Special Condition 1** requires that revised final plans be submitted that show 4-ft. wide view corridors in the north and south side yards of the subject site. To preserve public views from the Palisades Beach Road, landscape materials within the view corridors shall be species with a growth potential not expected to exceed 3 ft. at maturity and all proposed landscaping in these yard areas must be maintained at a height of 3 ft. or lower (including raised planters). Furthermore, the condition requires that any fencing or gates within the side yard setbacks shall permit public views and have at least 75% of its surface area open to light. **Special Condition 2** requires that the revised plans be consistent with geotechnical recommendations submitted with this application.

The existing structure to be demolished and reconstructed is adjacent to and landward of the western property line (1921 mean high tide line). The 1921 mean high tide line was formally established as part of a settlement (including lease agreements authorizing the property owners to use State tidelands) between State Lands, City of Santa Monica and the various property owners, as the legal property line between public and private property in this location. Although the Commission was not a party to the settlement, the Commission has required that no private, permanent improvements extend onto the leased state lands beyond the 1921 mean high tide line. The leased State lands are shown in the rectangular hatched area along the entire western edge of the site in [Exhibit 3](#) (the Site Plan note stating "(N) GATE" on the western edge of the leased state land is no longer proposed and will be removed in the final revised plans). In this particular case, all proposed development is located landward of the 1921 mean high tide line. **Special Condition 1** prohibits any improvements in the leased State tidelands. The approval of the permit shall not constitute a waiver of any public rights that exist or may exist on the property, which is addressed by **Special Condition 12** and protects the public beach sand for public use.

Due to the width of the beach and the location of the Santa Monica breakwater, properties along the beach are generally protected from storm wave impacts and have not required shoreline protective devices. The coastal hazards study submitted by the applicants indicated that with sea level rise, even under extreme conditions, the house will be protected from wave action by approximately 850 ft. of existing sandy beach located between the mean high tide line and the project location. Furthermore, the applicants are constructing the proposed development within an area that already contains development. In the case of the proposed project, the applicants do not propose the construction of any shoreline protective device to protect the proposed development. The submitted hazards report found that with a sea level rise scenario of 66 in. and an estimated 0.5 ft. storm surge, the maximum wave uprush at the site would be at elevation +14.85 NAVD88 and would be located 395 ft. seaward of the western property line. The 66 in. sea level rise scenario assumed by the applicants' coastal hazards analysis is generally consistent with the high emission scenario, medium-high risk probability that is projected for 2090 (approximately the end of the expected 75-year life of the proposed development), as recommended by the 2018 Ocean Protection Council report and the Commission's Sea Level Rise Guidance (as updated on November 8, 2018). Furthermore, in this location, the FEMA Coastal High Hazard Ve Flood Zone is located at elevation +17 ft. NAVD88 and is also seaward of the proposed home. The submitted hazards report recommends that the base floor elevation be located at least +18 ft. NAVD88 to remain above the

inundation zone. As proposed, the base floor elevation (finished first floor) will be at +19.25 ft. However, current sea level rise projections have a level of uncertainty. Therefore, the proposed development remains at risk to the adverse effects of sea level rise, especially if the rate of erosion and wave uprush accelerates faster than projected or if there are changes in the frequency or effectiveness of beach nourishment activities or changes to sediment management in the area. In any case, new development is not entitled to shoreline protection under the Coastal Act. **Special Condition 10** requires that no future shoreline protective device will be constructed. Further, the landowner must remove the development if (a) any government agency has ordered that the structures are not to be occupied due to coastal hazards, or if any public agency requires the structures to be removed; (b) essential services to the site can no longer feasibly be maintained (e.g., utilities, roads); (c) the development is no longer located on private property due to the migration of the public trust boundary; (d) removal is required pursuant to LCP policies for sea level rise adaptation planning; or (e) the development would require a shoreline protective device to prevent a-d above that is inconsistent with the coastal resource protection policies of the Coastal Act or certified LCP. **Special Condition 10** requires that if any of the proposed development becomes threatened by coastal hazards in the future, even though information presented by the applicants' engineer today finds that that is not expected, then the threatened development may need to be removed.

Shorelines are inherently dynamic areas and the proposed development is located on an oceanfront lot. In addition, our understanding of expected sea level rise is continually evolving in light of new evidence and cannot be predicted with certainty. Accordingly, notwithstanding the significant beach that currently exists, the proposed development nevertheless is subject to potential damage from storm flooding, wave attack, erosion, liquefaction, and sea level rise, that will be exacerbated by sea level rise in the future. Given that the applicants have chosen to implement the project on a beachfront lot despite the inherent risks of development at oceanfront locations such as this, the applicants must assume the risks of developing in this area. Therefore, the Commission imposes **Special Condition 8. Special Condition 11** requires recordation of the permit conditions against the property to ensure future property owners are aware of the above mentioned protections and conditions.

The development is located in an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, **Special Condition 9** requires that future improvements to the home obtain an amendment to this permit or a CDP.

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain, surf, or wind 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 addition, the use of machinery in coastal waters not designed for such use may result in the release of lubricants or oils that are toxic to marine life. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column. Soil erosion can occur naturally, and may be accelerated during grading and construction when the area cover is removed and bare soil is disturbed. The City

requires all new development to reduce the projected runoff for the site, and the project is designed to treat, infiltrate or filter stormwater via roof drains that lead to trench drains for onsite percolation. Best management practices will also be incorporated throughout the course of construction. To ensure the project conforms to the drainage and run-off control plan received on July 12, 2018, the Commission imposes **Special Condition 5-7**. In addition, **Special Condition 1** requires revised plans documenting that drainage of the swimming pool onto the beach is prohibited. The applicants have indicated that the proposed development may include new glass windscreens along the boundary of the site with the beach. Glass railing systems, walls or wind screens are known to have adverse impacts upon a variety of bird species. Birds are known to strike these glass walls causing their death or stunning them, which exposes them to predation. To ensure bird strike prevention, **Special Condition 4** requires that the applicants use a material for the glass railing that is designed to prevent creation of a bird strike hazard, and to submit revised plans reflecting the requirements of this condition. **Special Condition 3** requires the applicants to utilize drought tolerant, non-invasive plant species in order to minimize water use and water runoff from the subject site.

## **B. ACCESS**

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

## **C. WATER QUALITY**

The proposed site was previously developed with a residential structure. The proposed project will not significantly increase site runoff from the previous development, the project will comply with the City of Santa Monica's water quality requirements, and the project has been conditioned to ensure compliance with drainage and runoff plans designed to minimize impacts of construction on water quality. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

## **D. DEED RESTRICTION**

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

## **E. HAZARDS**

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future is unlikely to be approved due to adverse impacts they usually have on coastal resources, including, on, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and

property, the development has been conditioned to: require an appropriate set-back from the water; require a drainage and runoff control plan to direct, treat, and minimize the flow of water offsite; prohibit construction of protective devices (such as a seawall) in the future; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

#### **F. LOCAL COASTAL PROGRAM**

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 Commission has certified the City’s Land Use Plan (LUP). However, the City does not yet have a certified Implementation Plan. Therefore, the Chapter 3 policies of the Coastal Act are the standard of review, with the certified LUP used as guidance. The proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 of the Coastal Act.

#### **G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. 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.