

CALIFORNIA COASTAL COMMISSION

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Th17d

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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 14-unit condominium development. The north and south buildings are proposed to be remodeled, including construction of a third-story addition 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 28 spaces would be constructed, and three ground-level guest parking spaces onsite would be developed.

Staff Recommendation: Approval with Conditions

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 14-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 two large additions and one new building that would be attached to the facades of the existing buildings. The project would result in a 31,899 sq. ft. development with 14 two and three-bedroom condominium units that range in size from 920 sq. ft. to 3,013 sq. ft. Three of the 14 units would be

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

The City of Santa Monica originally approved the applicant's proposal to demolish the 16-unit apartment complex and to construct a 12-unit condominium complex in the same footprint as the original apartment complex. The City-approved project was submitted to the Coastal Commission on May 3, 2018, after which Commission staff prepared a staff report for the November 2018 hearing recommending denial of the applicant's proposal on the grounds that the proposed 12-unit condominium construction is not consistent with Sections 30250 and 30253 of the Coastal Act, which require development to be concentrated in existing developed areas able to accommodate it and minimize adverse impacts to coastal resources. The applicant postponed the hearing, consulted further with Commission staff, and revised the project description to provide 14 condominium units, including three affordable units, instead of the originally proposed 12 units, only two of which would have been affordable, and the applicant proposed sufficient parking to support 14 units.

The primary Coastal Act issue raised by the applicant's revised proposal is consistency with Coastal Act policies regarding concentrating new development (Sections 30250 and 30253). As modified to provide two additional condominium units, the project is consistent with Sections 30250 and 30253 of the Coastal Act, as it would minimize the loss of housing density in an area designated as appropriate for high-density development, as well as potential impacts to coastal resources from increased development pressures in other areas of the Coastal Zone that may result from reducing housing density in this area. Although the project would still remove two rental units from the housing market, new information received from the City indicates that the proposal is not part of a larger trend of projects that reduce housing density in Santa Monica's Coastal Zone; therefore, the impacts of losing two housing units at this location is unlikely to have broader cumulative effects on coastal resources. In addition, the proposed project is consistent with the community character, public access, water quality, and coastal view policies of the Coastal Act.

Accordingly, staff recommends that the Commission **approve** the proposed project **with special conditions** requiring that the applicant: 1) submit final revised plans for a 14-unit condominium development; 2) utilize drought-tolerant, non-invasive landscaping for project; 3) utilize construction best practices to ensure that construction materials do not impact water quality; 4) acknowledge that future improvements (even those that would normally be exempt from permit requirements) shall require a permit amendment or a new CDP; and 5) that any conditions imposed by the City of Santa Monica will apply to the development. The motion and resolution to carry out the staff recommendation is on **Page 4**.

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APPENDICES

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EXHIBITS

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

[Exhibit 2 – Preliminary 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 **YES** vote. Failure of this motion will result in approval 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 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.

- A. **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 revised final project plans that reflect the applicant's project proposal on 1/17/2019, including construction of 14 units onsite, three of which are affordable units, and a total of 31 parking spaces.
- B. 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. Landscaping – Drought Tolerant, Non-Invasive Plants.

By acceptance of this permit, the applicant agrees that vegetated landscaped areas and planters shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. The use of pesticides and herbicides shall be prohibited. 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>).

3. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.

By acceptance of this permit, 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.

4. **Future Permit Requirement.** This permit is only for the development described in coastal development permit (CDP) 5-18-0380. Pursuant to Title 14 California Code of Regulations (CCR) Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) Section 30610(b) shall not apply to the development governed by the CDP 5-18-0380. Accordingly, any future improvements to this structure authorized by this permit shall require an amendment to CDP 5-18-0380 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government. In addition thereto, an amendment to CDP 5-18-0380 from the Commission or an additional CDP from the Commission or from the applicable certified local government shall be required for any repair or maintenance identified as requiring a permit in PRC Section 30610(d) and Title 14 CCR Sections 13252(a)-(b).

5. **Conditions Imposed By Local Government.** This action has no effect on requirements imposed by the City of Santa Monica pursuant to an authority other than the Coastal Act, except as provided in the last sentence of this condition. The permittee is responsible for compliance with all terms and conditions of this coastal development permit in addition to any other requirements imposed by local government permits, except that, in the event of conflicts between terms and conditions imposed by the local government and those of this coastal development permit, the terms and conditions of this coastal development permit shall prevail.

IV. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION & DESCRIPTION

The subject site consists of a 22,500 sq. ft. parcel that is 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 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 and addition to the existing 16-unit, three building apartment complex, and conversion from apartment units 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 14 two and three-bedroom condominium units that range in size from 920 sq. ft. to 3,013 sq. ft. ([Exhibit 2](#)). The project will supply 31 parking spaces for the condominium development- 28 tenant spaces will be provided in a subterranean parking garage, and 3 guest spaces will be provided at ground level. 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. 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 subterranean parking garage is expanded to accommodate 28 spaces, the buildings would be lowered onto new foundations that would be placed in the original building footprint. 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 third-story would be added and an 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.

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, 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. 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.

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 exercised his right under the Ellis Act and vacated the tenants from all 16 apartment units to exit the rental market. The applicant has indicated that the apartment units have not been occupied since 2010. The proposed project provides that three of the 14 new condominium units would be designated affordable units, in compliance with the City's affordable unit requirements for new residential development.

Project Background

The City of Santa Monica approved the applicant's proposal to demolish the 16-unit apartment complex and to construct a 12-unit condominium complex in the same footprint as the original apartment complex. The City-approved project was submitted to the Coastal Commission on May 3, 2018. On October 26, 2018, Commission staff published a staff report for the November 2018 hearing recommending denial of the applicant's proposal on the grounds that the proposed 12-unit condominium construction is not consistent with Sections 30250 and 30253 of the Coastal Act. The applicant exercised his right to one postponement in order to consult further with Commission staff about the project. After subsequent discussions with Commission staff with regard to the loss of housing units, the applicant revised the project description to provide 14 condominium units instead of the originally proposed 12 units. The additional units would be accommodated by breaking up two of the larger condominium units into smaller units. The applicant is also proposing to add additional parking to ensure adequate parking for 14 units. Since the postponed hearing, Commission staff has obtained more detailed information regarding the pattern of residential development in Santa Monica over the past ten years and has found that, unlike some other southern California coastal cities, in Santa Monica more residential units have been added within the Coastal Zone than have been removed. As discussed in more detail below, the current proposal can be conditioned to be consistent with Chapter 3 of the Coastal Act.

B. OTHER AGENCY APPROVALS

The original 12-unit condominium project received a City of Santa Monica Planning Commission approval on June 21, 2017. The City approved demolition of the existing three-building, 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. After

Commission approval and condition compliance, the final, revised, 14-unit project will need to be re-approved by the City's Planning Department and by the 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:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (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 and Hazards Avoidance

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.

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.

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 land (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 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 could exacerbate sea level rise impacts and the loss of coastal resources.

Application to the Current Project

The project site is located in an area designated by the certified Santa Monica LUP as appropriate for high-density housing. The 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, i.e., the location of the proposed development. 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-serving and/or commercial uses. 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 project site.

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).

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 (now vacant) 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 could 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 16 apartment units and to construct 14 condominium units in its place, a reduction of 2 units. The proposed development represents an underutilization of the lot; the lot could legally maintain more units than currently exist. However, the proposed 14-unit condominium development does maintain a similar medium-level of development as the current 16-unit apartment complex, and is more appropriate for the zone established by the LUP than the original proposal to construct only 12 condominium units.

In addition, 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 is situated on the top of a 158-ft. tall palisade and is located 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 and is an ideal location to protect housing stock.

Even as modified by the applicant, the proposed project would result in the loss of two residential units in this high-density area. The concerns identified in the prior staff report for the project (dated 10/26/2018) continue to be relevant—i.e., the loss of housing density (though now reduced to two units) could increase development pressure in other areas of the City that could be 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.

An important consideration, therefore, is whether the impacts to housing density from this project would cumulatively harm coastal resources as a result of similar projects in this area, or whether this project is an isolated case. To that end, Commission staff consulted with the City to explore whether there are any broader trends regarding housing density in Santa Monica's Coastal Zone. The City provided Commission staff housing data from between 2009 and 2018, which demonstrates that, during the past roughly ten years, 182 units were constructed in the Coastal Zone and 145 units were removed from the Coastal Zone, resulting in a net gain of 37 units in the 10-year period. This trend of increasing housing stock within the Coastal Zone has been sustained over at least the past decade and, due to policies at the local level, seems likely to continue in the future. In addition, Commission staff is not aware of any other Commission actions approving similar projects in Santa Monica's Coastal Zone that would result in significant loss of housing density. Although the data provided is limited, it appears that the loss of housing density at this location is not part of a broader trend in the Santa Monica Coastal Zone and, therefore, approval of the project, and a reduction in housing density at this location, is not likely to significantly impact coastal resources elsewhere in the Coastal Zone.

As an alternative to approving the current project proposal, the Commission could condition the project to require the construction of 16 condominium units instead of 14 units. This approach would result in no loss in housing density, and would also provide four affordable units pursuant to the City's regulations (explained below), as opposed to the three affordable units currently proposed. However, the applicant has stated that it cannot provide sufficient parking for a 16-unit apartment complex and has not submitted a feasibility study to determine whether or not 16 units can be constructed onsite while complying with all Coastal Act and local requirements. As it currently stands, there is not enough information in the record to assess the potential impacts that could arise upon approval of a 16-unit

condominium complex. Although a 16-unit project would not result in a loss of housing density, there may be other unintended consequences. For example, if the City does not allow the applicant to excavate additional area to accommodate parking for 16-units, the complex would be under-parked and could adversely impact public access. Although the applicant has not provided written evidence to demonstrate that sufficient parking for 16 units is not feasible, the fact remains that staff only has information to evaluate a 14-unit development. Therefore, there is insufficient evidence to determine whether construction of a 16-unit condominium is feasible and consistent with the Coastal Act.

Housing Density Conclusion

Although the proposed project would reduce housing density by two units at a location appropriate for higher-density development, it does not appear to be part of a larger trend in residential development in Santa Monica that will cumulatively impact coastal resources. In addition, the applicant has modified the original project to provide two additional condominium units, thereby minimizing potential impacts to coastal resources elsewhere in the Coastal Zone. The proposed 14-unit project maintains a similar level of development (medium-density) as the current 16-unit development; thus, the project would not result in a “down-zoning” of the project site to a low-density level of development. In addition, the project is a multi-family residential development in a higher-zoned area that is relatively safe from coastal and geologic hazards. To ensure that the project is constructed as proposed to include construction of 14 units, **Special Condition 1** requires the applicant to submit revised project plans that reflect construction of 14 condominium units onsite, and to undertake development in accordance with the approved final plans. Therefore, as conditioned by this permit, the project is consistent with Sections 30250 and 30253 of the Coastal Act.

Affordable Housing

The project raises potential issues regarding affordable housing. It is important to note, however, that the Coastal Act does not authorize the Commission to require low-cost housing in the Coastal Zone. That authority was removed by the Legislature, and a separate statute, the Mello Act (Government Code Section 65590), establishes requirements for affordable housing in the Coastal Zone that apply to local governments, not the Commission. The Coastal Act makes clear that the Commission “is not authorized to review a local government’s application” of the requirements of the Mello Act. (Pub. Resources Code § 30011). Instead, Sections 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. As the project includes construction of three designated “affordable” units pursuant to the City’s regulations, approval of the project appears to be consistent with Section 30604(f) and (g), although the precise impacts of the project on affordable housing, as compared to existing conditions, is difficult to assess, for the reasons discussed below.

The City of Santa Monica 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 the proposed 14-unit condominium project, the applicant would need to provide a minimum of 2.8 units. For any fraction of a unit that exceeds 0.5, an additional affordable unit must be provided (consistent with Section

9.64.070 of the Municipal Code). In this case, because 14 units are proposed, three of the units must be affordable. Conversely, if 16 condominiums units were constructed, the ordinance requires that 25% of the units must be affordable, which would equate to 4 affordable units in a 16-unit complex.

As stated earlier, all of the existing apartment units were vacated by the owner in 2010 in order to exit the rental market. Under the Ellis Act, if more than five years have elapsed since rental units were withdrawn from the rental market, the property owner has the option to re-rent the units at current market rates. According to the applicant, the existing apartment units were withdrawn from the rental market in 2010 and, therefore, more than five years have elapsed. The applicant therefore appears to have 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, so retaining all 16 rental units would not likely result in affordable rental units onsite because the owner would be free to charge market rates for all 16 units.

If the Commission approves the proposed project, there would be a loss of two housing units. However, three of the 14 proposed new condominium units would be designated as affordable units for moderate-income households pursuant to the City's regulations. If the project is denied and the applicant subsequently decides to re-enter the rental market, there would be no loss of housing density. However, it appears the units could be rented at market rates, with no designated affordable units. It is difficult to predict what the market rates would be for the existing apartment complex, but it is unlikely 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," but does not require it and does not dictate the form of affordable housing (e.g., rentals vs. for-sale). Given these complexities, it is difficult to assess exactly how affordable housing would be impacted by either a no project or project approval scenario, except that approval of the project would result in the construction of three housing units designated "affordable" pursuant to the City's regulations.

In sum, approval of the project is consistent with Section 30604(f) and (g) because it includes the provision of at least three affordable housing units pursuant to the City's regulations. Because the applicant revised the proposal after the City approved the development and to ensure that the project as currently proposed is implemented, the project is conditioned per **Special Condition 1** such that final revised plans must be submitted to the Commission prior to issuance of the permit that accurately reflect the current proposal for development of 14 units, three of which are affordable units, and 31 parking spaces onsite, and to require the applicant to undertake development in conformance with the approved plans. The project also has been conditioned, per **Special Condition 5**, to require the applicant to implement any requirement imposed by the City of Santa Monica unless they conflict with this CDP.

D. PUBLIC ACCESS

Coastal Act Section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum public 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 resources areas from overuse.

Coastal Act Section 30211 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 development.

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 serving 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 Act prioritizes the protection of public access to the coast and, in Section 30252, specifically identifies adequate parking as an important component of 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. The applicant has proposed 31 parking spaces for the proposed 14-unit residential development, which is consistent with past Commission action. Twenty-eight 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 would be created for the project, so public parking along Ocean Avenue will not be impacted by the project.

Public transportation options are readily available within the project vicinity. The project site is located 0.3 miles (or a seven minute walk) away from the 4th Street / Marguerita bus station. This station houses the Route 9 bus, which runs between Pacific Palisades and the Santa Monica Civic Center. Residents can also easily bike or take ride-sharing services (i.e. Uber, Lyft) to the Third Street Promenade, which is only one mile away from the project site. The Expo Line is also located just over a mile away from the project site, and facilitates transportation to Downtown Los Angeles without the need for a car. Overall, the project is sited in an area where alternate forms of transportation are readily available for residents to access Downtown Santa Monica and other destinations in the greater Los Angeles Area.

The proposed parking is sufficient for the 14 proposed residential units and will not impact public parking surrounding the project site or interfere with public access to the coast. Furthermore, the

project site is surrounded by a wide array of transportation options within and outside of Santa Monica that do not require a personal vehicle. Therefore, the proposed project is consistent with Sections 30210, 30211, and 30252 of the Coastal Act.

E. COASTAL VIEWS/COMMUNITY CHARACTER

Coastal Act Section 30251 states:

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 LUP¹. Furthermore, the lot is not located where Ocean Ave 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 one-story, 15-foot high structures to four and five-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.

F. WATER QUALITY

Coastal Act Section 30230 states:

¹ 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 Section 30251 with regard to coastal views and community character.

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

Coastal Act Section 30232 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 waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The project site is located approximately 700 feet inland from the beach, and is situated on the top of a 158-ft. tall palisade. The site is setback 150 feet from the palisade edge, and is located in an urbanized neighborhood. Although the project site is not directly located near any sensitive waterways, the proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters during the construction phase. Therefore, the Commission imposes **Special Condition 4**, requiring the applicant to adhere to best practices regarding the storage of construction materials and construction debris. These best practices include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms to 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.

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.

As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act, including Sections 30250, 30252 and 30253. Although this project would result in the removal of two residential units, the overall trend of development in the Santa Monica Coastal Zone has shown an increase of residential units over the past ten years. Although housing density is a larger issue that should be addressed by the City through its Local Coastal Program, as proposed and conditioned, this particular project would not 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).

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 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.

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