

**CALIFORNIA COASTAL COMMISSION**

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# W21e

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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 5-18-0394

**Applicant:** Fariba and Morteza Danesh

**Agents:** Sherman Stacey/ Rebecca Thompson, Gaines & Stacey, LLP

**Location:** 449 Paseo de la Playa, Torrance, Los Angeles County  
(APN 7512-002-015)

**Project Description:** Interior remodel and addition to an existing 3,593 sq. ft., two-story, single-family residence, including the addition of approximately 900 sq. ft. to the first floor, and approximately 1,300 sq. ft. to the second floor. In addition the project includes landscaping, and a 2,100 sq. ft. expansion of the existing 500 sq. ft. blufftop patio with a new spa, fire pit, and cabana.

**Staff Recommendation:** Approval with conditions.

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### SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed development with eleven special conditions outlined on pages 6-11 of this staff report. The applicants are proposing a first and second-story addition to their existing home, including a new patio, spa, fire pit, and cabana located on a coastal blufftop lot seaward of the existing single-family residence. The project site is one of 28 bluff top residences adjacent to Torrance Beach, which is a public beach. In the project vicinity, the Commission typically imposes either a minimum bluff edge setback of 25 feet from the edge of the bluff for primary structures and minimum 10-foot setback for secondary structures (at grade patios, decks, garden walls), or requires conformance with structural and deck string line setbacks as drawn from adjacent structures. As proposed, the seaward extent of the project exceeds the structural setback of 25 feet from the bluff edge, and also exceeds the 10-foot bluff edge setback for secondary structures, as shown on **Exhibit 1**.

Specifically, the applicants are proposing to build an approximately 900 square-foot addition to the first floor at the rear of the existing two-story, 3,593 square-foot single-family residence, extending that portion of the house approximately 17 feet seaward, into an area currently occupied by an outdoor patio and lawn; and an approximately 1,300 square-foot addition to the second floor. The applicants also propose to extend the present patio approximately 47 feet seaward of the existing house, and build a new 2,100 square-foot patio to include a new spa, fire pit, built-in barbeque on the new at-grade patio supported by cement footings, and a 9-foot high, 168 square-foot cabana. A 42-inch high guard rail is also proposed to surround the perimeter of the new patio. Although sea-cliff wild buckwheat (*Eriogonum parvifolium*), the host plant for the endangered El Segundo blue butterfly (*Euphilotes battoides allyni*), was observed growing along the toe of the bluff on the subject property, the project as conditioned will be located more than 100 feet from the vegetation, which will not negatively impact sea-cliff wild buckwheat.

The primary issue of dispute in this case is the location of the applicant's proposed grading and new development, which is located approximately 47 feet further than the existing patio on site, and onto a portion of the undeveloped bluff slope itself, which is inconsistent with Section 20353 of the Coastal Act and past Commission action for other bluff top development projects. The applicant's determination of the bluff edge was not implemented consistent with Section 13577(h) of Coastal Commission's regulations that define the bluff and provide guidance on determining the location of the bluff edge, and would be located approximately 50 feet further seaward than the actual seaward edge of the top of bluff, which has been confirmed by the Commission's Staff Geologist, Dr. Joseph Street. As a result, the proposed project would extend far seaward of the normally required setbacks for bluff development. In order to bring the project into compliance with the blufftop development standards in Chapter 3 of the Coastal Act, **Special Condition 1** requires the submittal of revised final plans ensuring that structural improvements are relocated landward of the normally required 25 feet setback from the actual seaward edge of the top of the bluff on site.

In addition, **Special Condition 2** requires conformance with geotechnical recommendations. The Commission imposes **Special Condition 9** which specifies construction timing constraints to avoid adverse impacts on sensitive species, particularly the El Segundo Blue Butterfly as a precautionary measure if the sea-cliff wild buckwheat (*Eriogonum parvifolium*) is in fact occupied by the endangered butterflies. In addition, because the project site is on a beachfront parcel and in proximity to coastal waters, the Commission recommends construction-related requirements and best management practices under **Special Conditions 3 and 4** to prevent pollution of coastal waters.

Moreover, given that the applicants have chosen to implement the project on a coastal bluff property despite risks from erosion, landslides, slope instability, and earth movement, the applicants must assume the risks. Therefore, the Commission imposes **Special Conditions 5 and 8**, which require an assumption of risk and no future development without an amendment to this permit or new coastal development permit.

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition 10**, which requires the property owners 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.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. On June 18, 1981, the Commission approved with suggested modifications the City of Torrance Land Use Plan (LUP). The City did not accept the modifications and the certified LUP, which was valid for six months, lapsed. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act.

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### EXHIBITS

- Exhibit 1– Commission staff’s determination of bluff edge compared to that the applicant.
- Exhibit 2 – Project Location/Vicinity Map
- Exhibit 3 – Project Plans
- Exhibit 4 – *Geotechnical Review Memorandum for 449 Paseo de la Playa (Danesh Residence), CDP Application no. 5-17-0134*, prepared by Senior Environmental Scientist Joseph Street, and Senior Coastal Engineer, Lesley Ewing on February 20, 2018.
- Exhibit 5 – *Supplemental Geotechnical Review Memorandum for 449 Paseo de la Playa (Danesh Residence), CDP Application No. 5-18-0394*, prepared by Staff Geologist, Joseph Street, and Senior Coastal Engineer, Lesley Ewing on January 18, 2019.
- Exhibit 6 – *Habitat Survey for 529 and 533 Paseo de la Playa, Coastal Development Permit Application No. 5-17-0630*, prepared by Biologist Dan Rosie on July 21, 2017
- Exhibit 7 – Site photos of existing vegetation
- Exhibit 8 – Site photos of geologic conditions on neighboring slope at 501 Paseo de la Playa
- Exhibit 9 – *Bluff Edge Delineation Study and Establishment of Development Setback Response to California Coastal Commission Notice of Incomplete Application [Coastal Development Permit Application No. 5-18-1394] 449 Paseo de la Playa, Redondo Beach, California*, prepared by Hamilton & Associates on September 4, 2018.

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit No. 5-18-0394 pursuant to the staff recommendation.*

Staff recommends a **YES** vote of the foregoing motion. Passage of this motion will result in conditional 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 applicant 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 or 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 applicant 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 Final Project Plans.**

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director’s review and approval, two (2) complete sets of final project plans, including site plans and elevations demarcating the Commission determined bluff edge at the +125-foot contour line. The project plans shall identify the proposed residence and accessory development, including, but not limited to, the residence, patio, spa, fire pit, barbeque area, hardscaping, landscaping, and grading, demonstrating that the proposed structural addition is setback approximately 25 feet from the +125-foot contour line. In addition, the revised plans shall demonstrate that no portion of the proposed patio shall extend beyond the 10-foot setback from the +125 foot contour line.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. **Conformance with Geotechnical Recommendations.**

- A. All final plans as modified and approved under Coastal Development Permit No. 5-18-0394, shall be consistent with all recommendations contained in the *Limited Soil Engineering Investigation by T.I.N. Engineering Company* dated September 29, 2015, and the *Bluff Edge Delineation Study and Establishment of Development Setback in Response to California Coastal Commission Review – Westerly Slope 449 Paseo de la Playa, Redondo Beach, California*, geotechnical report dated July 3, 2017, and signed by B.J. Miller, M.F. Mills (CEG 994), D.T. Hamilton (GE 2721) and E.E. Vicente (GE 2302).
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant 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 to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. **Erosion Control Plan.**

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director’s review and approval, a plan for runoff and erosion control.
  - i. The runoff and erosion control plan shall demonstrate that:

- (1) During construction, erosion on the site shall be controlled to avoid adverse impacts on the habitat at the toe of the bluff.
- (2) At a minimum, the following temporary erosion control measures shall be used during construction: sand bags, a desilting basin and silt fences.
- (3) Following construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and public streets.
- (4) At a minimum, the following permanent erosion control measures shall be installed: a drain to direct roof and yard drainage to the street; no drainage shall be directed to the rear yard slope; no drainage shall be retained in the front yard.
- (5) No underground irrigation system shall be installed in the rear yard.

ii. The plan shall include, at a minimum, the following components:

- (1) A narrative report describing all temporary erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control.
- (2) A site plan showing the location of all temporary erosion control measures.
- (3) A schedule for installation and removal of the temporary erosion control measures.
- (4) A site plan showing the location of all permanent erosion control measures.
- (5) A schedule for installation and maintenance of the permanent erosion control measures.

B. The permittee shall undertake development in accordance with the approved runoff and erosion control plan. Any proposed changes to the approved final runoff and erosion control plan shall be reported to the Executive Director. No changes to the approved final runoff and erosion control plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. **Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.**

A. The permittee shall comply with the following construction-related requirements:

- i. No construction materials, debris, or waste shall be placed or stored where it may be subject to water, wind, rain, or dispersion;
- ii. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- iii. 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;
- iv. Erosion control/sedimentation Best Management Practices (BMPs) 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
- v. 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:

- i. The applicant 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;
- ii. The applicant shall develop and implement spill prevention and control measures;
- iii. The applicant 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-feet away from a storm drain, open ditch or surface water; and
- iv. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

**5. Future Improvements.** This permit is only for the development described in Coastal Development Permit No. 5-18-0394. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to this development governed by the Coastal Development Permit No. 5-18-0394. Accordingly, any future improvements to the structures authorized by this permit, including but not limited to, repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-18-0394 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

**6. Landscape Plan Landscaping Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit in a form and content acceptable to the Executive Director, two (2) sets of a final revised landscaping plans prepared by an appropriately licensed professional which demonstrates the following:

- 1) All areas disturbed/affected by construction activities not occupied by structural development (including the structure and decks) shall be re-vegetated for habitat enhancement and erosion control purposes;
- 2) No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, 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. Any existing landscaping that doesn't meet all of the requirements in this special condition shall be removed;
- 3) Any areas disturbed/affected by construction activities in the rear yard (coastal bluff-facing) shall be planted and maintained for erosion control and native habitat enhancement purposes. To minimize the need for irrigation and minimize

encroachment of non-native plant species into adjacent existing native plant areas, all landscaping adjacent to the coastal bluff shall consist of drought tolerant plants native to coastal Los Angeles County and appropriate to the habitat type. Native plants shall be from local stock wherever possible;

- 4) Landscaped areas in the front yard (street-facing) area shall consist of native or non-invasive, non-native drought tolerant plant species;
- 5) All planting will be completed within 60 days after completion of construction;
- 6) No permanent in-ground irrigation systems shall be installed on the coastal bluff-facing portion of the site. Temporary above ground irrigation is allowed to establish plantings.
- 7) All vegetation shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscaping plan.

The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan 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.

7. **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 landslide, bluff retreat, erosion and/or earth movement, (ii) to assume the risks to the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
8. **No Future Bluff or Shoreline Protective Device(s) to Protect the Proposed Development.**
  - A. By acceptance of this permit, the applicant agrees, on behalf of itself and all other successors and assigns, that no new bluff or shoreline protective device(s) that would substantially alter natural landforms along bluffs and cliffs shall be constructed to protect the development approved pursuant to CDP 5-18-0394, including, but not limited to, the proposed development as it relates to the residence, foundations, patios, spas, decks, balconies, and any future improvements and/or accessory structures, in the event that the development is threatened with damage or destruction from erosion, landslides, storm conditions, sea level rise or other natural coastal hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to augment, maintain and/or construct such devices that may exist under applicable law.

- B. By acceptance of this permit, the applicants/landowners further agrees, on behalf of themselves and all successors and assigns, that the landowners shall remove the development authorized by this permit including, but not limited to, the additions to the residence, spa, and patio, and any other accessory structures, 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.

If any portion of the existing blufftop development is removed, consistent with the special conditions of CDP 5-18-0394, the applicants/landowners shall have a geotechnical investigation prepared by a licensed coastal engineer and geologist, retained by the landowner(s), which addresses whether any portions of the development approved per CDP 5-18-0394 are threatened by coastal hazards. The report shall identify all those immediate or potential future measures that could stabilize the development without bluff or shoreline protective device(s), including but not limited to removal or relocation of portions of the development. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical investigation concludes that any portion of the development is unsafe for occupancy, the permittee shall, within 90 days of submitting the investigation, apply for a coastal development permit amendment to remedy the hazard.

Prior to removal/relocation, the permittee shall submit two copies of a Removal/Relocation Plan to the Executive Director for review and written approval. The Removal/Relocation Plan shall clearly describe the manner in which such development is to be removed/relocated and the affected area restored so as to protect coastal resources. In the event that portions of the development fall down the bluff before they are removed, the landowner shall remove all recoverable debris associated with the development and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

- 9. Pool/Spa Protection Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, if the revised plans include a spa, the applicant shall submit, for the Executive Director's review and approval, a spa protection plan. The spa protection plan shall incorporate mitigation of the potential for geologic instability caused by leakage from the proposed spa, including: 1) installation of a spa leak detection system such as, but not limited to, leak detection system/moisture sensor with alarm and/or a separate water meter for the spa which is separate from the water meter for the house to allow for the monitoring of water usage for the spa; 2) use of materials and spa design features, such as but not limited to double linings, plastic linings or specially treated cement, to be used to waterproof the undersides of the spa to prevent leakage, along with information regarding the past and/or anticipated success of these materials in preventing leakage; and where feasible; 3) installation of a sub-drain or other equivalent drainage system under the spa that conveys any water leakage to an appropriate drainage outlet. The applicant shall comply with the final spa plan approved by the Executive Director.

The permittee shall undertake development in accordance with the approved spa protection plan. Any proposed changes to the approved spa protection plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

- 10. Construction Timing.** To avoid adverse impacts to the El Segundo blue butterfly, construction shall not occur between mid-June and October 5<sup>th</sup>. However, the permittee may undertake construction during this period upon obtaining a written statement from the Executive Director authorizing construction on specified dates. To obtain such a determination, the permittees must submit a declaration from California Department of Fish and Wildlife stating that construction on the specific dates proposed will not cause adverse impacts to any state or federally-listed sensitive, threatened, or endangered species. The declaration must contain an assessment of the timing of the flight season and larval development of the El Segundo blue butterfly found in the area and a statement that the construction activity on the specific dates proposed will not interfere with flight or larval development of the El Segundo blue butterfly.
- 11. Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

## V. FINDINGS AND DECLARATIONS

### A. PROJECT DESCRIPTION & LOCATION

#### *Location and Site History*

The project site is located within an existing residential area at 449 Paseo de la Playa, City of Torrance, Los Angeles County ([Exhibit 2](#)). The site is one of 28 lots on the bluff top between the first public road, Paseo de la Playa, and the sea. The coastal bluff in this location is approximately 60 feet high at the Los Angeles County Torrance Beach Park to the north of the subject residential lots, and gradually rises to 120 feet high near the boundary of Palos Verdes Estates. All 28 bluff top lots have been developed with single-family residences. Torrance Beach, the beach seaward of the toe of the bluff, is public. Vertical public access to this beach is available to pedestrians via public parking lots and footpaths located at the Los Angeles County Beaches and Harbors' "Torrance Beach Park" approximately one-quarter mile north of the project site ([Exhibit 2](#)). The 29,910 square-foot lot extends from the street down approximately 128 feet in elevation to the 200-foot wide public beach ([Exhibit 2](#)). The top portion of the lot is approximately 60 feet wide, flat, and

developed with an existing two-story single-family residence. The flat part of the lot extends approximately 100 feet from the street to the top edge of the bluff contour line 128-foot elevation contour, which is located approximately 20 feet seaward of the edge of the existing single-family residence (**Exhibit 4 p. 8 of 9**).

The project site has been subject to past action by the Commission. In October of 1990, the Coastal Commission approved Coastal Development Permit No. 5-90-868 for a bluff remediation project on the subject site that involved after-the-fact approval of unpermitted grading that was conducted circa 1988 that involved a total of 971 cubic yards of earth being moved; 133 cubic yards of earth of which were taken off of the hump of the bluff head and placed near the bottom of the slope to create a level pad area. In addition, approximately three-fourths of the bluff face had been denuded of vegetation. Coastal Development Permit No. 5-90-868 ultimately approved the after-the-fact grading, and the installation of four concrete terrace drains to improve drainage on the slope (as shown on [Exhibit 2](#)), and a revegetation plan consisting of native coastal plant species.

### *Project Description*

The subject residence is located on a coastal bluff overlooking the Pacific Ocean. The applicants are proposing to build an approximately 900 square-foot addition to the first floor at the rear of the existing two-story, 3,593 square-foot single-family residence, extending that portion of the house approximately 17 feet seaward, into an area currently occupied by an outdoor patio and lawn; and an approximately 1,300 square-foot addition to the second floor (**Exhibit 3**). The applicants also propose to construct a new 2,100 sq. ft. patio that would extend approximately 50 feet seaward of the existing patio, that would include a new spa, fire pit, built-in barbeque on the new at-grade patio supported by cement footings, and a 9-foot high, 168 square-foot cabana. A 42-inch high guard rail is also proposed to surround the perimeter of the new patio (**Exhibit 3**). Grading consists of 42 cubic-yards of cut and 110 cubic-yards of fill. The drainage plans indicate that the spa drainage will be directed into the sewer system. The applicants do not propose any development below the patio and propose to leave the remaining portion of the bluff face undisturbed. Commission staff has identified sea-cliff wild buckwheat (*Eriogonum parvifolium*), habitat for the rare and endangered El Segundo Blue butterfly (*Euphilotes bernardino allyni*) on the face of the lower slope (**Exhibit 7**). However, the Commission's Senior Staff Ecologist, Dr. Jonna Engel, has determined that regardless of whether the plants are occupied by the endangered butterflies, which could potentially rise to the level of Environmentally Sensitive Habitat Area (ESHA), the project as conditioned would be located more than 100 feet from the habitat, providing a sufficient buffer between the development and the sensitive vegetation.

In February of 2017, the applicants submitted Coastal Development Permit Application No. 5-17-0134 for the same proposed development. Staff notified the applicant at that time that their bluff edge determination by their geologist had been incorrectly delineated approximately 130 ft. further seaward than the actual seaward edge of the top of the bluff and requested that the applicant's geologist provide a corrected delineation based on the appropriate methodology. After discussing this recommendation during an in-person meeting with the applicant and his representatives on April 10, 2018, that application was ultimately withdrawn on April 18, 2018. The applicant resubmitted a new application for the same development on May 9, 2018, which is the subject of this staff report, with new materials submitted by the applicant's geotechnical consultant, intended to support of the applicants' bluff edge determination.

**B. HAZARDS**

Coastal Act section 30253 states in relevant 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.*
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Coastal Act section 30235 states in relevant part:

*Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fishkills should be phased out or upgraded where feasible.*

The project is located on a coastal bluff top lot overlooking the Pacific Ocean. To evaluate the feasibility of future residential development at the subject site, the applicants commissioned a Limited Soil Engineering Investigation by T.I.N. Engineering Company dated September 29, 2015 and a Bluff Edge Delineation Study by Hamilton & Associates, dated July 3, 2017. The scope of the geological investigation involved excavation of two test trenches, specific field soil logging and sampling, laboratory soil sample tests, and engineering analyses. According to the report, the purpose of the investigation was to obtain information “on the subsurface soil condition in the areas of the proposed house additions and house remodeling on which to base conclusions and recommendations for suitable foundation designs for the proposed house additions and house remodeling at the subject property.” In addition, Hamilton & Associates determined the bluff edge to be at approximately +80 feet Mean Sea Level (MSL). However, Commission staff’s Geologist and Coastal Engineer reviewed the soil investigation and bluff edge delineation study, in addition to documents directly related to the subject property and surrounding properties, and provided planning staff with a Geotechnical Review Memorandum for CDP Application No. 5-17-0134, dated February 20, 2018 and determined that the bluff edge at the project site is approximately +125 MSL ([Exhibit 4](#)).

After CDP Application No. 5-17-0134 was withdrawn, the applicant submitted a second geologic study and delineation of the bluff edge for CDP Application No. 5-18-0394, *Bluff Edge Delineation Study and Establishment of Development Setback Response to California Coastal Commission Notice of Incomplete Application [Coastal Development Permit Application No. 5-18-0394] 449 Paseo de la Playa, Redondo Beach, CA.*, dated September 4, 2018, by Hamilton & Associates. However, the applicant’s geologist failed to provide adequate substantiation to support their bluff edge delineation. Commission staff’s Geologist, Dr. Joseph Street reviewed the second report by Hamilton & Associates, which stated that past modifications of the coastal bluff (i.e. cut or removal of bluff materials) caused the bluff edge to be located further seaward, and disagreed with this

theory, which is contrary to long-standing Commission practice, reflected in numerous previous bluff edge determinations, that human activities can move the bluff edge inland, but cannot, by the use of fill, push the natural bluff edge seaward ([See Exhibit 5](#)).

As previously explained, remedial grading previously occurred on the subject site circa 1990 (CDP No. 5-90-868) that involved a total of 971 cubic-yards of earth being moved; 133 cubic-yards of earth of which were taken off of the bluff head and placed near the bottom of the slope to create a level pad area. In addition, approximately three-fourths of the bluff face had been denuded of vegetation at that time. CDP No. 5-90-868 ultimately approved the after-the-fact grading, and the installation of four concrete terrace drains to improve drainage on the slope, and a revegetation plan consisting of native coastal plant species (**Exhibit 9, p. 8**). The resulting engineered upper bluff face is characterized by relatively gentle slopes of 25 to 33% (4:1 to 3:1, horizontal: vertical). The lower bluff face is characterized by a steeper gradient of up to 50% (2:1 horizontal: vertical).

#### *Bluff Erosion/Retreat and Sea Level Rise Considerations*

The lower slope is underlain by the Monterey Formation, which is known to be subject to land sliding, but at the project site the bedding is described as “tightly folded along fold axes that are perpendicular to the subject slope”, a configuration in which bedding planes would tend not to be exposed on the bluff face. The upper slope is underlain by marine terrace deposits. A quantitative slope stability analysis conducted by the applicant’s geologist indicates that the slope is globally stable with a factor of safety greater than 1.5 with respect to sliding. Nevertheless, it is acknowledged that landslides and episodic slope failures have occurred along the lower Paseo de la Playa bluff, particularly to the south of the project site where the coastal bluff is steeper than at this project site. The upper bluff slope is also subject to surficial sliding and creep, as evidenced by erosional features on the adjacent slope at 501 Paseo de la Playa ([Exhibit 8](#)). Due to its proximity to several active faults, including the Newport-Inglewood fault and the Palos Verdes Fault, the site can be expected to experience severe ground shaking during the economic life of the development, and has been mapped by the CA Division of Mines and Geology within an earthquake-induced landslide zone. However, according to the Commission’s geologist, Dr. Joseph Street, the slope will likely be grossly stable even during such shaking, and the elevation of the project site reduces the likelihood of a liquefaction hazard ([Exhibit 4](#)). In addition, erosion on the upper bluff could also occur in response to the expected steepening of the lower bluff over the long term due to marine erosion which is likely to be exacerbated by sea level rise.

Sea level has been rising for many years. Several different approaches have been used to analyze the global tide gauge records in order to assess the spatial and temporal variations, and these efforts have yielded sea level rise rates ranging from about 1.2 mm/year to 1.7 mm/year (about 0.5 to 0.7 inches/decade) for the 20th century, but since 1990 the rate has more than doubled, and the rate of sea level rise continues to accelerate. Since the advent of satellite altimetry in 1993, measurements of absolute sea level from space indicate an average global rate of sea level rise of 3.4 mm/year or 1.3 inches/decade – more than twice the average rate over the 20th century and greater than any time over the past one thousand years.<sup>1</sup> Recent observations of sea level along parts of the California coast have shown some anomalous trends; however, the best available science

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<sup>1</sup> <http://www.opc.ca.gov/webmaster/ftp/pdf/docs/rising-seas-in-california-an-update-on-sea-level-rise-science.pdf>

demonstrates that the climate is warming, and such warming is expected to cause sea levels to rise at an accelerating rate throughout this century.

The State of California has undertaken significant research to understand how much sea level rise to expect over this century and to anticipate the likely impacts of such sea level rise. In April 2017, a working group of the Ocean Protection Council's (OPC) Science Advisory Team released *Rising Seas in California: An Update on Sea-Level Rise Science*.<sup>2</sup> This report synthesizes recent evolving research on sea level rise science, notably including a discussion of probabilistic sea level rise projections as well as the potential for rapid ice loss leading to extreme sea level rise. This science synthesis was integrated into the OPC's *State of California Sea-Level Rise Guidance 2018 Update*.<sup>3</sup> This Guidance document provides high-level, statewide recommendations for state agencies and other stakeholders to follow when analyzing sea level rise. Notably, it provides a set of projections that OPC recommends using when assessing potential sea level rise vulnerabilities for various projects. Taken together, the Rising Seas science report and updated State Guidance account for the current best available science on sea level rise for the State of California. The updated projections in the 2017 Rising Seas report and the 2018 OPC Guidance suggest sea levels could rise between 2.1 and 6.7 feet by 2100 at the Los Angeles tide gauge,<sup>4</sup> depending on future greenhouse gas emissions. The OPC Guidance recommends that development of only moderate adaptive capacity, including residential development, use the high end of this range, 6.7 feet, to inform decisions regarding development. The updated Rising Seas science report and OPC Guidance also include an extreme scenario (termed the "H++" scenario) of 9.9 feet of sea level rise by 2100 based on recent modelling efforts that look at possible sea level rise associated with rapid ice sheet loss. These projections and recommendations are incorporated into the 2018 update of the Coastal Commission Sea Level Rise Policy Guidance.<sup>5</sup>

As our understanding of sea level rise continues to evolve, it is possible that sea level rise projections will continue to change as well (as evidenced by the recent updates to best available science). While uncertainty will remain with regard to exactly how much sea levels will rise and when, the direction of sea level change is clear and it is critical to continue to assess sea level rise vulnerabilities when planning for future development. Importantly, maintaining a precautionary approach that considers high or even extreme sea level rise rates and includes planning for future adaptation will help ensure that decisions are made that will result in a resilient coastal California.

While the applicants acknowledge the likelihood of future sea level rise over the anticipated 75-year life of the proposed project to increase another 5 to 14 inches in addition to the 5 to 7 inch rise in sea level that has occurred from 1924 to 2007, based upon a U.S. EPA Climate Change Site

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

<sup>3</sup> OPC State of California Sea-Level Rise Guidance, 2018 Update:  
[http://www.opc.ca.gov/webmaster/ftp/pdf/agenda\\_items/20180314/Item3\\_Exhibit-A\\_OPC\\_SLR\\_Guidance-rd3.pdf](http://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20180314/Item3_Exhibit-A_OPC_SLR_Guidance-rd3.pdf)

<sup>4</sup> The OPC Guidance provides sea level rise projections for 12 California tide gauges, and recommends using the projections from the tide gauge closest to the project site. The projections for the LA tide gauge can be found on page 72 of the OPC Guidance.

<sup>5</sup> <https://www.coastal.ca.gov/climate/slrguidance.html>

Figure,<sup>6</sup> they do not attempt to account for its potential effects on the long-term bluff retreat rate, stating only that its effects would “likely be small” (*See Bluff Edge Delineation Study and Establishment of Development Setback in Response to California Coastal Commission Review – Westerly Slope 449 Paseo de la Playa, Redondo Beach, California*”, geotechnical report dated July 3, 2017). Commission staff’s preliminary evaluation of CoSMoS<sup>7</sup> modeling for the project area indicates that the toe of the bluff is relatively resilient to sea level rise impacts over the next 75 years due to its high elevation and wide sandy beach.

Using the estimated retreat rate of four inches per year (0.33 ft/yr), the applicant’s geologist estimates a total 75 year bluff retreat rate of 25 feet, occurring entirely within the lower portion of the bluff subject to marine erosion. The applicant considers the upper bluff erosion to be negligible provided existing drainage controls are maintained and appropriate additional drainage measures are included in the proposed project. Commission staff generally concurs with these assessments; however, based on present-day observations and past events, continued surficial creep, slumps, and gullyng at the site are to be expected. Moreover, shoreline areas are inherently dynamic environments. To ensure compliance with Chapter 3 hazards policies, property owners must take into account the risks of rising sea level when planning and designing coastal projects.

#### *Bluff Stability and Bluff Setbacks*

Coastal bluff development is inherently hazardous and poses potential adverse impacts to the geologic stability of coastal bluffs, shoreline processes, and to the stability of residential structures. In view of the cumulative effect on safety, public views and bluff habitat statewide, the Commission has determined in many instances that the policy most protective of resources is to require that development be setback from bluff edges and prevent development from extending on to the face of the bluff. Bluff collapses or failures and emergency permits have led the Commission to change its views on bluff encroachments throughout the coast. Since 1997, the Commission has witnessed a number of serious failures on bluffs that had not been expected to fail. A number of them were associated with grading and/or excess moisture from human-induced water sources. In addition, the Commission has noted cumulative pressure on bluff faces for stairways and other improvements such as patios and walkways.

For development proposed on coastal bluffs, the Commission typically requires principal structures and major accessory structures such as guesthouses and pools to be setback at least 25 feet from the bluff edge and that accessory structures that do not require structural foundations such as decks, patios and walkways to be sited at least 10 feet from the bluff edge to minimize the potential that the development will contribute to slope instability. The intent of these setbacks (as articulated in the South Coast Region Interpretive Guidelines for bluff top development adopted by the Commission in 1981, and consistent with past Commission action in the area), is to substantially reduce the likelihood of proposed development becoming threatened given the inherent uncertainty

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<sup>6</sup> Hamilton & Associates, Inc., 2017, “Bluff Edge Delineation Study and Establishment of Development Setback in Response to California Coastal Commission Review – Westerly Slope 449 Paseo De La Playa, Redondo Beach, California”, geotechnical report dated July 3, 2017, and signed by B.J. Miller, M.F. Mills (CEG 994), D.T. Hamilton (GE 2721) and E.E. Vicente (GE 2302).

<sup>7</sup> The Coastal Storm Modeling System (CoSMoS) is a dynamic modeling approach that has been developed by the United States Geological Survey in order to allow more detailed predictions of coastal flooding due to both future sea level rise and storms integrated with long-term coastal evolution (i.e., beach changes and cliff/bluff retreat) over large geographic areas (100s of kilometers). [https://walrus.wr.usgs.gov/coastal\\_processes/cosmos/](https://walrus.wr.usgs.gov/coastal_processes/cosmos/)

in predicting geologic processes in the future, and to allow for potential changes in bluff erosion rates as a result of rising sea level. If ancillary structures are threatened by erosion it is understood that they will be relocated rather than protected by structural means.

In this case, a string-line determination is not the most protective of coastal resources because the morphology of the bluff in this location recedes sharply landward by approximately 20 feet between the upcoast property, 445 Paseo de la Playa, and the subject site. In addition, the residence at 445 Paseo de la Playa was constructed in circa 1980, without the benefit of a coastal development permit ([Exhibit 9, p. 9](#)).

Commission staff disagrees with the applicants' designated bluff edge, which has been depicted to be located approximately halfway down the bluff face, at the +80-foot contour line (**Exhibit 9**). The applicant's geologist appears to rely on a localized decrease in the gradient of the slope occurring near the lowermost concrete swale built into the face of the bluff, which was approved by the Commission as after-the-fact grading as discussed above (Coastal Development Permit No. 5-90-868), which is the result of artificial terracing during the construction of the swale and does not represent the natural bluff edge. Regardless, the Commission's bluff edge regulation (Cal. Code Reg. Title 14, §13577(h)) expressly accounts for this sort of small-scale, localized variability in slope, and the Commission's Geologist, along with the Commission's Coastal Engineer, finds that the applicants' top of bluff line does not represent the position of the bluff edge as defined by the Commission's regulations. Based on past Commission permit action on neighboring parcels, a Commission staff site visit, and the unique morphology of this coastal bluff, Commission staff has determined that the bluff edge on this parcel is located at approximately the +125-foot contour line, which is located significantly closer to the existing residence than the location of the bluff edge as depicted by the applicant ([See Exhibit 1](#)).

As discussed above, the Commission typically requires principal structures and major accessory structures such as guesthouses and pools to be setback at least 25 feet from the bluff edge to minimize the potential that the development will contribute to slope instability. In this case, the applicant's proposed setback for new development is based on their incorrect delineation of the bluff edge. Thus, as proposed, development on site would not only fail to provide any setback from the bluff edge but would actually extend down the bluff slope itself.

Dr. Street and Dr. Ewing determined that episodic slope failures have occurred along the lower Paseo de la Playa bluff, and that the upper bluff slope is also subject to surficial sliding and creep, including past slumping events on the upper bluff at the project site. They have also found that the project site is located in close proximity to several active faults; thus, although the slope is grossly stable, it is vulnerable to minor surficial slumps or ground cracking. In addition, the annual erosion rate estimated by the applicant's geologist does not account for marine erosion caused by sea level rise, which (as discussed above) is expected to occur. Finally, erosion on the upper bluff could occur in response to the expected steepening of the lower bluff over the long term due to marine erosion, which would be exacerbated by sea level rise. Accordingly, Dr. Street and Dr. Ewing concluded in their Geotechnical Review Memorandum, dated February 20, 2018, that:

*Based on these considerations, and on the inherent uncertainty associated with predicting geologic processes into the future, we recommend that new development at*

*the project site be set back from the bluff edge by 25 feet in order to assure stability over the life of the development.*

Therefore, it is important that new development on site provide a 25-foot setback from the bluff edge for the primary residence and major additions, and a 10-foot setback from the bluff edge for proposed minor accessory structures that do not require foundational support and could be easily removed in the event that they are subject to potential erosion. These minimal setbacks will ensure that the project *assures* stability and structural integrity, and neither creates nor contributes significantly to erosion, geologic instability, or destruction of the site or surrounding area, as required by Coastal Act section 30253(b).

Here, the applicants' proposed project is not consistent with these setback requirements. The addition to the first and second floor of the existing residence would extend the footprint approximately 17 feet seaward of its current position, and into an area currently occupied by an outdoor patio and lawn; as a result, the project would result in a primary residence that is located 10 feet from the bluff edge, as determined by Commission staff. In addition, the project would include the installation of accessory structures, including a deck, cabana, fire pit, built in barbeque and spa, extending over the bluff slope approximately 45 to 65 feet seaward of the existing house. These accessory structures would be located 50 feet seaward of the bluff edge, as determined by Commission staff. (The extended patio is proposed to be supported by deepened concrete footings, although no retaining walls are proposed.) Therefore, **Special Condition 1** requires that prior to issuance of the coastal development permit, the applicant must submit revised plans demarcating the Commission determined bluff edge at the +125-foot contour line, demonstrating that the proposed structural addition is setback approximately 25 feet from the bluff edge. In addition, the revised plans shall demonstrate that no portion of the proposed patio shall extend beyond the 10-foot setback from the +125-foot contour line. Furthermore, **Special Condition 5** places the applicants on notice that no new improvements, including maintenance and repairs, to the existing pre-coastal development within these bluff top setbacks is allowed without a coastal development permit.

#### *Future Bluff and Shoreline Protection*

The subject site is a bluff top oceanfront lot. In general, bluff top lots are inherently hazardous. It is the nature of bluffs to erode. Bluff failure can be episodic, and bluffs that seem stable now may not be so in the future. Even when a thorough professional geotechnical analysis of a site concludes that a proposed development is expected to be safe from bluff retreat hazards for the life of the project, it has been the experience of the Commission that in some instances, unexpected bluff retreat episodes that threaten development during the life of a structure sometimes do occur (e.g. Coastal Development Permit No. 5-17-0630.) In the Commission's experience, geologists cannot predict with absolute certainty if or when bluff failure on a particular site may take place, and cannot predict if or when a residence or property may become threatened by natural coastal processes.

Section 30253 of the Coastal Act requires that new permitted development shall not require construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The proposed development could not be recommended for approval and deemed consistent with Section 30253 of the Coastal Act *if* projected bluff retreat would affect the proposed development and necessitate construction of a protection device. A protective device may be a seawall at the base of the bluff, or a rock anchor system, or shotcrete wall on the bluff face or other

similar protective device that substantially alters natural landforms along bluffs and cliffs. If new development necessitates future protection, the landform and shoreline processes could be dramatically altered by the presence of the protective system.

The Coastal Act limits construction of these protective devices because they have a variety of negative impacts on coastal resources including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach. However, under Coastal Act Section 30235, a shoreline protective structure is authorized if: (1) there is an existing structure in imminent danger from erosion; (2) shoreline altering construction is necessary to protect the existing threatened structure; and (3) the required protection is designed to eliminate or mitigate the adverse impacts on shoreline sand supply.

Section 30235 requires the Commission to approve shoreline protection for residential development only for existing structures, not new development, as is involved in this project. In addition, the construction of a shoreline protective device to protect new residential development would likely conflict with Section 30253 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms, including coastal bluffs which would be subject to increased erosion from such a device.

The proposed project includes new development, and can only be found consistent with Section 30253 of the Coastal Act if a shoreline/bluff protective device is not needed in the future. The applicant's geotechnical consultant has indicated that the site is grossly stable, that the project should be safe for the life of the project (75 years), and that no shoreline protection devices will be needed. If not for the information provided by the applicant that the site is safe for development, the Commission likely could not conclude that the proposed development will not in any way "require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." The proposed development appears to be safe from erosion on the basis of available information and is therefore consistent with Coastal Act section 30253. As stated above, the record of coastal development permit applications and Commission actions has also shown that geologic conditions change over time and that predictions based upon the geologic sciences are inexact. Even though there is evidence that geologic conditions change, the Commission must rely upon, and hold the applicant to their information which states that the site is safe for development without the need for protective devices. To minimize the project's potential future impact on shoreline processes, **Special Condition 8** prohibits construction of any future bluff or shoreline protective device(s) such as revetments, seawalls, caissons, cliff retaining walls, shotcrete walls, and other such construction that armors or otherwise substantially alters the bluff face in order to protect the development if approved pursuant to Coastal Development Permit No. 5-18-0394 including, but not limited to, the residence, foundations, and patios, and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, sea level rise or other natural coastal hazards in the future. **Special Condition 8**, however, does not preclude the applicant from applying for future coastal development permits for maintenance of existing development or future improvements to the site (other than blufftop or shoreline protective devices) including landscaping and drainage improvements aimed to prevent slope and bluff instability. The Commission would determine the consistency of such proposals with the Coastal Act in its review of such applications.

*Future Development*

Due to its bluff top location, the proposed project raises concerns that future development at the project site potentially may, over time, result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. In order to ensure that development on the site does not occur which could potentially adversely impact the geologic stability concerns expressed in this staff report, the Commission imposes **Special Condition 5**. This condition informs the applicant that future development at the bluff top site, pursuant to Sections 13252 and 13253 of the Commission's regulations, requires an amendment to this permit (5-18-0394) or a new coastal development permit. Future development includes, but is not limited to, structural additions, landscaping, and fencing.

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition 11** 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.

As conditioned, the project is required to provide an appropriate set-back from the bluff edge; prohibit construction of protective devices (such as blufftop or shoreline protective devices) in the future; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. Only as conditioned, does the Commission find that the development conforms to the requirements of Section 30253 of the Coastal Act regarding the siting of development in a hazardous location.

**B. VISUAL RESOURCES**

Section 30251 of the Coastal Act pertains to visual resources. It 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...*

The project is located on a coastal bluff top lot overlooking the Pacific Ocean. No public views of the ocean area available from the subject site, but the site is visible from public vantage points, including the ocean, and Torrance Beach, the public beach below the bluff. The Commission has observed that cumulatively, such development obscures the public's view of the natural landforms of bluffs and cliffs. Because the proposed development will potentially affect views from public vantage points, any adverse visual impacts must be minimized. Consequently, it is necessary to ensure that the development will be sited to protect views to and along the ocean and minimize the alteration of existing landforms.

The project, as proposed, includes extending the patio approximately 47 feet seaward from the existing house, which includes an approximately 180 square-foot, 9-foot high cabana approximately

37 feet from the existing house on the north end of the yard, which would be visible from the public beach below, impacting the public's view of the natural bluff. As conditioned, the applicant must revise the project plans to construct the patio closer to the existing house, thereby rendering the approved development consistent with the pattern of development in the surrounding area, and public views of the bluff will not be impeded by construction of the proposed patio and cabana, and landform alteration of the coastal bluff will be minimized. In addition, as discussed in the preceding section relating to coastal hazards, the project does not include any shoreline protective structures, and the project is conditioned to prohibit future shoreline protection for the proposed development, thereby minimizing landform alterations that would likely result if a shoreline protective device were constructed to protect the proposed development. Therefore, as conditioned, the proposed project does not result in adverse impacts to visual resources and is consistent with the pattern of development in the surrounding area.

### C. BIOLOGICAL RESOURCES

Section 30240 of the Coastal Act states:

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

*(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Section 30107.5 of the Coastal Act defines environmentally sensitive habitat or ESHA as:

*"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Sea-cliff wild buckwheat (*Eriogonum parvifolium*), the host plant for the endangered El Segundo blue butterfly (*Euphilotes battoides allyni*), and the butterfly itself, can be found in patches throughout the bluff face on many of the lots along Paseo de la Playa, especially along the seaward extent of the lower slope. The United States Fish and Wildlife Service (USFWS) provided the Commission written notice of this discovery in 1995 (Letter, Gail Kobetich, 1995), and the first habitat recovery plan identified a population within the vicinity of the proposed project, which included Torrance as one of the four targeted recovery sites (USFWS 1998).

Due to the possible presence of El Segundo blue butterflies (ESB's), or its host plant, sea-cliff buckwheat on the project site, Commission staff requested that the applicant submit a biological survey to determine what types of vegetation currently exist on the property. In response, the applicant submitted a letter entitled "*El Segundo Blue Butterfly Host Plant Report, 449 Paseo de la Playa, Redondo Beach, California (Lot 168 of Tract Map 18379)*" conducted by ecologist Dan Rosie, on behalf of Michael Baker International on July 21, 2017. According to the results of the survey conducted on July 19, 2017, the slope down to the beach is dominated by Hottentot fig (*Carpobrotus edulis*), commonly known as iceplant, and other nonnative plants, with a limited

number of native species including deerweed (*Acmispon glaber*) and beach evening-primrose (*Camissoniopsis cheiranthifolia*). According to his assessment, “no individuals of dune buckwheat or wildlife were observed within or surrounding the survey area, including areas further to the west and downslope.”

However, when visiting the subject site in October 2017, Commission staff observed three individual specimens of sea-cliff buckwheat on the lower portion of the bluff near the sandy beach, approximately 200 feet seaward of the project site ([Exhibit 7](#)). Commission staff contacted Mr. Rosie from Michael Baker, International to discuss the discrepancy between the applicant’s survey results from July 2017 and staff’s observations in October 2017. Mr. Rosie explained that although Commission staff requested a survey of the lot in its entirety, the survey area Mr. Rosie investigated was limited to the proposed project area along the upper portion of the bluff, and although he did not physically walk the entire parcel as requested due to the rough terrain at the lower end of the slope, his visual observations did not reveal the existing vegetation below the edge of the bluff where Commission staff observed the sea-cliff buckwheat specimens. It is not known whether or not the sea-cliff buckwheat specimens present on the site were occupied with ESB’s.

Section 30240 of the Coastal Act requires that environmentally sensitive habitat area (“ESHA”) be protected. Under Section 30107.5 of the Coastal Act, there are three important elements of ESHA. First, a geographic area can be designated ESHA either because of the presence of individual species of plants or animals, or because of the presence of a particular habitat. Second, in order for an area to be designated as ESHA, the species or habitat must be either rare or it must be especially valuable. Finally, the area must be easily disturbed or degraded by human activities.

The vegetation on the upper bluff near the project site and the vegetation on the middle of the bluff does not consist of any native plant communities or sensitive plant species and therefore, does not rise to the level of ESHA at this time. Site photos reviewed by Commission Staff Ecologist Dr. Jonna Engel revealed that the bluff in this location is significantly invaded by iceplant with very few native plants growing onsite, and does not in its current state support Southern Coastal Bluff Scrub (SCBS), which is identified by the California Department of Fish and Wildlife as one of the rarest and most threatened habitats in California and this area does not contain the host plant for the endangered butterfly species.

Located at the toe of the bluff, however, are three individual specimens of sea-cliff buckwheat (*Eriogonum parvifolium*), which are critical habitat for ESB’s, and when occupied by ESB’s may be considered Environmentally Sensitive Habitat Area (ESHA). Commission staff finds that the habitat on the lower portion of the bluff that maintains the sea-cliff buckwheat (*Eriogonum parvifolium*) could rise to the level of ESHA if additional studies yield more information about the presence of ESBs, however at this time there is no evidence that the plants are occupied by the butterflies. Moreover, even if individual specimens of sea-cliff buckwheat (*Eriogonum parvifolium*) are in fact occupied by ESB’s, which may elevate the vegetation to qualify as ESHA, the proposed project is more than 100 feet upslope of the plants, which is an adequate buffer to prevent adverse impacts to the plants and ESB. To ensure that no impacts occur to the sea-cliff buckwheat at the bottom of the slope, Commission staff is imposing **Special Condition 5**, which requires that any future improvements to the residence, which would otherwise be exempt from the Coastal Act requirement to obtain a CDP, require an amendment to the permit or a new CDP. The Commission also imposes **Special Condition 6**, which requires the applicant to prepare landscaping plans containing minimum protections to ensure protection of native vegetation in the project area. The purpose of

the report is to certify that the on-site landscaping conforms with the landscaping plans approved pursuant to the special condition. As conditioned, the development is consistent with Section 30240 of the Coastal Act.

In addition, construction on coastal bluffs may result in siltation of ocean waters due to unrestricted runoff and erosion. To prevent this and to assure protection of offshore waters and the bluff face vegetation, the Commission has imposed **Special Conditions 3 and 4** to prevent erosion during construction and discharge of excess water over the face of the bluff or onto the beach and offshore waters. In addition, any construction or removal of the bluff face vegetation would require an amendment to this permit or a new permit as required by **Special Condition 5**. **Special Condition 5** ensures that proposed improvements that would otherwise be exempt from the Coastal Act are reviewed by the Commission for possible impacts to sensitive habitat. As conditioned, the development is consistent with Sections 30230 and 30240 of the Coastal Act.

#### **D. WATER QUALITY**

Section 30230 of the Coastal Act states:

*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 all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained, and where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. Uncontrolled runoff from the project site and the percolation of water could also affect the structural stability of bluffs and hillsides. To address possible water quality concerns during construction, the development, as proposed and as conditioned, incorporates design features to minimize the infiltration of water and the effect of construction and post-construction activities on the marine environment. **Special Condition 3** requires the applicant to submit an erosion and runoff control plan. In addition, the Commission imposes **Special Condition 4** requiring Best Management Practices, such as placement of sand bags around drainage inlets to prevent runoff/sediment transport into the storm drain system and the Pacific Ocean, use of debris fences as appropriate, a pre-construction meeting to review procedural and BMP guidelines and removal of construction debris and sediment from construction areas each day to prevent the accumulation of sediment and other debris which may be discharged to coastal waters. 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.

## **E. LOCAL COASTAL PROGRAM**

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act:

- (a) *Prior to certification of the Local Coastal Program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development 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 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.*

On June 18, 1981, the Commission approved with suggested modifications the City of Torrance Land Use Plan (LUP). The City did not accept the modifications and the certified LUP, which was valid for six months, has lapsed. The major issues raised in the LUP were affordable housing, blufftop development and beach parking.

Based upon the findings presented in the preceding section, the Commission finds that the proposed development, as conditioned, will not create adverse impacts on coastal resources. In addition, the Commission finds that approval of the proposed project will not prejudice the City's ability to prepare a Local Coastal Program consistent with the Chapter 3 policies of the Coastal Act, as required by Section 30604(a).

## **F. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As discussed above, the proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Feasible mitigation measures, which will minimize all significant adverse environmental effects, have been required as special conditions.

As conditioned to minimize adverse impacts to coastal resources, including scenic public views and water quality, 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, has no remaining significant environmental impacts, is the least environmentally damaging feasible alternative, and is consistent with the requirements of the Coastal Act to conform to CEQA.

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## **Appendix A – Substantive File Documents**

Coastal Development Permit Application Nos. 5-17-0134 and 5-18-0394

Coastal Development Permit Application 5-17-0630, *Southern Coastal Bluff Scrub ESHA at 529 and 533 Paseo de la Playa, Torrance, CA* prepared by Dr. Jonna Engel, CCC Senior Ecologist, August 28, 2018