

## CALIFORNIA COASTAL COMMISSION

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# F14b

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### STAFF REPORT: REGULAR CALENDAR

**Application No.:** 5-18-1153

**Applicant:** John and Michelle Katnik

**Agent:** Brandon Straus, Srour & Associates

**Project Location:** 609 Paseo de la Playa, Torrance, Los Angeles County (APN 7512-002-001)

**Project Description:** Request for after-the-fact approval of a minor addition of 64 sq. ft. of living area to the seaward side of the first floor of an existing 3,058 sq. ft. coastal bluff-top residence, an interior remodel and exterior improvements, 280 cubic yards of grading, installation of an approximately 84 sq. ft. spa and infill of a v-ditch drainage swale; A new (not after-the-fact) 1,000 sq. ft. concrete patio containing a 245 sq. ft. outdoor kitchen and built-in planters, two 36-in. high garden wall planters; and removal of the unpermitted coastal bluff-face staircase, retaining walls, and restoration of the bluff face with native southern coastal bluff plant species is also proposed.

**Staff Recommendation:** Approval with conditions.

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### SUMMARY OF STAFF RECOMMENDATION

The applicants are requesting after-the-fact approval of a 64 square-foot addition to the seaward side of the first floor of their existing 3,058 square foot, bluff-top, single-family residence, as well as an interior remodel and exterior renovations. The proposed addition extends approximately four feet seaward into the outdoor patio area. In addition to the unpermitted addition and remodel, the applicants are seeking after-the-fact approval for the installation of an 84 square foot spa, infill of a v-ditch drainage swale, and approximately 180 cubic yards of grading that was undertaken in circa 2015 without the benefit of a coastal development permit. The applicants also propose (not after-the-fact) to extend the existing 550 square foot concrete patio approximately 25 feet seaward of the existing house with a new approximately 1,000 square-foot concrete at-grade patio to include the unpermitted spa and a new 245 square-foot kitchen area with built-in planters, and two 30-inch high garden wall planters (approximately 52 and 30 linear feet).

The subject site is adjacent to coastal bluffs known to support Environmentally Sensitive Habitat Area (ESHA) that is potential habitat for an endangered species of butterfly endemic to the area (although the habitat is degraded and no butterflies have been observed at the project site). Although the Commission's ecologist has determined there is ESHA along the lower portion of the bluff on the subject property, the portion of the project located inland of the bluff edge as conditioned will be located more than 100 feet from the vegetation, which will not negatively impact ESHA on site.

The Commission's Enforcement staff sent a Notice of Violation ("NOV") letter to the property owners on October 23, 2018 notifying them of Coastal Act violations on the property, including: 1) construction of a spa on a coastal blufftop, and 2) grading on a coastal blufftop, and of the potential impacts of these activities to sensitive areas. The applicants subsequently applied for a coastal development permit on November 15, 2018 seeking approval for the above-described development. During Commission staff's analysis of the application, staff became aware of additional unpermitted development on the bluff face of the parcel including several staircases, retaining walls, a foot path, and exotic vegetation. On January 2, 2020, Enforcement staff sent the property owners a second NOV letter notifying them of the existence of the newly discovered unpermitted development and directed them to amend CDP application 5-18-1153 to include removal of the retaining walls, foot path, and exotic vegetation from the bluff face and to restore the site to native Southern Coastal Bluff Scrub habitat in order to resolve the myriad Coastal Act violations at issue. As a result of these efforts, the applicants are now proposing to remove the unpermitted development on the bluff face utilizing adequate measures to avoid significant impacts to ESHA, and to mitigate for the impacts caused by the presence of the staircases, vegetation, and retaining walls. In addition, the applicants are proposing to restore the area, which would involve removal of exotic vegetation and replacement with native plants including sea-cliff wild buckwheat (*Eriogonum parvifolium*), propagated from local sources to establish a native southern bluff scrub habitat suitable for the El Segundo Blue Butterfly (*Euphilotes battoides allyni*), which is currently endangered. As part of the project, the applicants

propose a monitoring plan to evaluate the success of the restoration project, which is addressed in **Special Condition 2**.

The proposed development has been conditioned to assure the project is consistent with the resource protection policies of the Coastal Act. Due to updates and revisions to the proposed project during staff review and any changes to site conditions, the Commission imposes **Special Condition 1**, which requires the submittal of final revised plans. The Commission imposes **Special Condition 5** which specifies construction timing constraints to avoid adverse impacts on sensitive species. 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, 4 and 6** to prevent pollution of coastal waters.

Moreover, given that the applicants have chosen to implement the project on coastal bluff properties despite risks from erosion, landslides, slope instability, and earth movement, the applicants must assume the risks. Therefore, the Commission imposes **Special Conditions 10 and 11**, which require an assumption of risk and no construction of future shoreline protective devices. 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 12** 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.

Thus, staff recommends that the Commission approve with conditions Coastal Development Permit Application No. 5-18-1153 as further discussed in this report. As conditioned herein, the project can be found consistent with Chapter 3 of the Coastal Act.

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## **EXHIBITS**

Exhibit 1 – Vicinity Map/Project Location

Exhibit 2 – Project Plans

Exhibit 3 – Bluff Edge Determination

Exhibit 4 – Unpermitted Development vs. Proposed Development

Exhibit 5 – *Habitat Survey for 529 and 533 Paseo de la Playa, Coastal Development Permit Application No. 5-17-0630*, prepared by Biologist Ann Dalkey on October 25, 2017

Exhibit 6 – *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

Exhibit 7 – Bluff face Development Site Plan

Exhibit 8 – *Habitat Restoration and Monitoring Plan* prepared by Biologist Ann Dalkey on November 12, 2018

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission approve Coastal Development Permit 5-18-1153 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

### Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project 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

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 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 applicant to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

1. **Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit two full sized (3 feet x 2 feet) sets of revised final plans with graphic scale to the Executive Director for review and approval. The final plans shall be in substantial conformance with the project plans submitted to the Coastal Commission's South Coast District Office on November 15, 2018, but shall be modified to achieve compliance with this condition, including that the revised plans shall show the following required changes and clarifications to the project:
  - A. **Removal of Proposed Planters or Garden Walls that Encroach into the Setback.** Removal of planters or garden walls proposed within the 10-foot setback from the bluff edge as depicted in **Exhibit 3**.
  - B. **Removal of "Walking Path".** References to the "walking path" or "private trail" should be removed.
  - C. **Removal of Unpermitted Development on Bluff.** Plans with the City of Torrance Approval in Concept and Geotechnical review for removal of the unpermitted staircases, retaining walls, non-native vegetation and grading plans demonstrating the limits of grading necessary to restore the bluff.

The permittees shall undertake development in accordance with the approved final plans within 90 days of issuance of this permit. 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. **Habitat Restoration and Monitoring Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit for review and written approval of the Executive Director, a final revised detailed habitat restoration and monitoring plan to restore disturbed habitat in substantial conformance with the submitted *609 Paseo de la Playa Restoration and Monitoring Proposal for Coastal Development Permit Application No. 5-18-1153* received January 28, 2020. The revised plan shall identify the final location and size of the proposed 12,000 square foot restoration area. A biologist qualified in the preparation of plans to restore a southern coastal bluff scrub community shall design the revised restoration and monitoring plan. The revised restoration and monitoring plan shall at a minimum include the following:

- A. Restoration plan including planting map, plant palette, source of plant material, and schedule of plant installation, watering, erosion control, soil fertilization and weed abatement.
- B. Final Success Criteria. The restoration will be considered successful if the overall species composition and the vegetative cover of the dominant perennial species are similar to relatively undisturbed vegetation of the same type in nearby reference areas. Species composition shall be considered similar if all the dominant species and at least 80% of the non-dominant species at the reference site are present at the restored site.
- C. Provisions for monitoring and remediation of the restoration site in accordance with the approved final restoration program for a period of five years or until it has been determined that success criteria have been met or have failed to be met, whichever comes first.
- D. Provisions for submission of annual reports of monitoring results to the Executive Director for the duration of the required monitoring period. Each report shall document the condition of the restoration with photographs taken from the same fixed points in the same directions. Each report shall also include a "Performance Evaluation" section where information and results from the monitoring program are used to evaluate the status of the restoration project in relation to the performance standards. The performance monitoring period shall either be five years or three years without maintenance or remediation, whichever is longer. The final report must be prepared in conjunction with a qualified biologist. The report must evaluate whether the restoration site conforms to the goals, objectives, and performance standards set forth in the approved final restoration program.
- E. If the final report indicates that the restoration project has been unsuccessful, in part, or in whole, based on the approved performance standards, the applicant shall submit within 90 days a revised or supplemental restoration program to compensate for those portions of the original program that were necessary to offset project impacts which did not meet the approved performance standards. The revised restoration program, if necessary, shall be processed as an amendment to this coastal development permit.

The permittees shall implement the habitat restoration and monitoring plan within 90 days of issuance of this permit. The permittees shall monitor and manage the restoration site in accordance with the approved mitigation and monitoring plan, including any revised restoration program approved by the Commission or its staff. Any proposed changes to the approved mitigation and monitoring plan shall be reported to the Executive Director. No changes to the approved mitigation and monitoring plan 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.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the Executive Director's review and approval, a plan for runoff and erosion control.

A. The erosion control plan shall demonstrate that:

- (1) During construction, erosion on the site shall be controlled to avoid adverse impacts on the habitat.
- (2) 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, public streets, and the public beach below.

B. 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.

C. The permittees shall undertake development in accordance with the approved permit. 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.

**4. Staging.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the review and written approval of the Executive Director, a staging plan for the proposed development. Development staging and storage of equipment is prohibited on the public beach and public beach parking lots/structures.

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

**5. Construction Timing.** To avoid adverse impacts on the El Segundo blue butterfly, construction shall not occur between mid-June and one month and one week after

August 31. 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 National 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.

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

The permittees 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 permittees shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- (g) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.

- (h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- (i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- (j) The discharge of any hazardous materials into any receiving waters shall be prohibited.
- (k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- (l) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity.
- (m) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

**7. Conformance with Geotechnical Recommendations.**

- A. All final plans as modified and approved under Coastal Development Permit No. 5-18-1153, shall be consistent with all recommendations contained in the *Soils Investigation, Proposed Residential Development, 609 Paseo de la Playa, Torrance, California*, dated June 4, 2015 submitted by Norcal Engineering.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the Executive Director's review and approval, two full sets of plans (3 feet x 2 feet) 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 permittees shall undertake development in accordance with the approved permit. 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.

- 8. Future Development.** This permit is only for the development described in Coastal Development Permit No. 5-18-1153. 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 the development governed by Coastal Development Permit No. 5-18-1153. Accordingly, any future improvements to the structure, patio, or the slope authorized by this Coastal Development Permit No. 5-18-1153, 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. 5-18-1153 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
- 9. Spa Protection Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, 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. No Future Shoreline Protective Device.**

- 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 5-18-1153 including, but not limited to, the proposed development as it relates to the residence, foundation, patios, spa, 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 further agree, on behalf of themselves and all successors and assigns, that the landowner is required to remove the development authorized by the permit if the City or any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to coastal hazards and that there are no measures that could make the structures suitable for habitation or use without the use of protective devices. The permittee shall obtain a coastal development permit for removal of approved development unless the Executive Director provides a written determination that no coastal development permit is legally required. This permit does not authorize encroachment onto public trust lands and any future encroachment onto public trust lands as a result of the migration of the public trust boundary must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain, and any future encroachment would also be subject to the State Lands Commission's (or other trustee agency's) leasing approval.
- C. If any portion of the existing blufftop development is removed, consistent with the special conditions of CDP 5-18-1153, 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 5-18-1153 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.
- D. 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.

- 11. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the permittees acknowledge and agree (i) that the site may be subject to hazards from flooding, sea level rise, erosion and wave uprush; (ii) to assume the risks to the permittees and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- 12. Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded against the parcels governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

## IV. FINDINGS AND DECLARATIONS

### A. Project Description and Location

#### Location and Site History

The project site is located on a coastal bluff property overlooking the Pacific Ocean within an existing residential area at 609 Paseo de la Playa, City of Torrance, Los Angeles County ([Exhibit 1](#)). The site is developed with a two-story single family residence constructed prior to 1972, and is the sixth southernmost lot of the 28 lots on the bluff top between the first public road, Paseo de la Playa, and the sea. All 28 bluff

top lots have been developed with single-family residences. The coastal bluff in this location is approximately 100 feet high at the Los Angeles County Torrance Beach Park to the north of the residential lots, and gradually rises to 120 feet high near the boundary of Palos Verdes Estates. Some of the blufftop residences share a trail network down the bluff face located on private properties leading to the public beach below, Torrance Beach. Except for a few cabañas, landscaping, stairways and pathways, the bluff face remains largely undeveloped. 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", which is approximately 1,500 feet to the north of the project site. There is also a vertical beach public access way and public parking area located approximately one mile to the south of the project site in Palos Verdes Estates.

## **Project Description**

The applicants are seeking after-the-fact approval of a 64 square-foot addition to the seaward side of the first floor of an existing two-story 3,058 square-foot coastal bluff-top residence, as well as an interior remodel and exterior improvements, 280 cubic yards of grading (174 cubic yards of cut, and 106 cubic yards of fill), installation of an approximately 84 square-foot spa, and infill of a v-ditch drainage swale. The applicants are also proposing a new (not after-the fact) 1,000 square-foot concrete patio on the seaward side of the residence containing a 245 sq. ft. outdoor kitchen and built-in planters, and two 36-in. high garden wall planters ([Exhibit 2 & 4](#)).

To address unpermitted development on the bluff face of the property, the applicants are proposing to remove unpermitted staircases, retaining walls, and a path, and to restore the bluff face with native southern coastal bluff plant species ([Exhibit 7](#)). Proposed restoration of the bluff face includes a monitoring plan to measure the effectiveness and success of the restoration project. No permanent irrigation system is proposed to be installed for the site restoration; instead, hand watering will be conducted as needed to augment natural precipitation.

When analyzing development that has been constructed without the benefit of a coastal development permit, Commission staff conducts the analysis as if the development has not yet occurred to determine whether it is consistent with Coastal Act policies. Therefore, analysis of the proposed project will include the portion of the development already constructed as if it had not yet been built.

## **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 the following studies and investigations by Norcal Engineering: A Soils Investigation dated June 4, 2015, a Supplemental Soils Investigation with Bluff Edge Delineation dated July 11, 2017, and a Slope Stability Analysis dated October 21, 2019. The scope of the geological investigations involved seven subsurface exploratory borings, specific field soil logging and sampling, laboratory soil sample tests, and engineering analyses. According to the report, the purpose of the investigation was to “explore the subsurface conditions and to provide preliminary geotechnical engineering design parameters for evaluation of the site with respect to development of the subject parcel. In addition, Norcal Engineering determined the bluff edge to meander between approximately +161 and +164 feet Mean Sea Level (MSL). Commission staff’s Geologist, Dr. Joseph Street reviewed the soil investigation and bluff edge determination, in addition to documents directly related to the subject property and surrounding properties, and agrees with this determination **(Exhibit 3)**.

With regard to the stability of the slope, Norcal Engineering determined that the portion of the bluff where the proposed accessory structures will be located is “marginally stable”, in that it has factors of safety (FoS) above 1.0, but below the 1.5 standard that the Commission typically requires for new principle structures. Thus, the areas where the at-grade concrete patio and planters are proposed (with the exception of the portion of the garden wall planters proposed within the 10-foot setback from the bluff-edge), appears to fall between FoS 1.4 and 1.5, which is adequate for the accessory development proposed. Furthermore, the proposed 64 square-foot structural addition to the first floor on the seaward side of the house is located behind the FoS 1.5 line, which is the Commission standard for new principle structures.



With regard to the stability of the bluff face where the unpermitted stairs and retaining walls are proposed to be removed, the applicant's consultant submitted a third response dated January 24, 2020, which determined that while there is a low factor of safety of 1.08 for surficial soils within 4 feet of the slope face, and that those retaining walls are preventing surficial erosion of the bluff face, that revegetating the slope with native vegetation is necessary to reduce adverse effects from erosion during inclement weather conditions. The results of this analysis concluded that these retaining walls do not impact the gross stability of the slope or the existing residence at the top of the slope. To ensure the retaining walls and staircases are removed in a geotechnically safe manner, **Special Condition 1** requires the applicant to submit revised plans with the City of Torrance Approval in Concept and Geotechnical review prior to issuance of the permit.

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

According to the applicants' reports, Malaga Mudstone underlies the subject property at depth, as exposed in the coastal sea bluff, and is overlain by a roughly 25-foot thick cap of terrestrial terrace deposits. A large ancient landslide is present in the bluff six properties to the south of the project site. A quantitative slope stability analysis conducted by the applicants' 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 slopes of properties up coast and down coast along Paseo de la Playa ([Exhibit 1](#)). 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 demonstrates that the climate is warming, and such warming is expected to cause sea levels to rise at an accelerating rate throughout this century.

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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>

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

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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>

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.

Although the applicants geological reports did not acknowledge sea level rise, Commission staff's preliminary evaluation of CoSMoS 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 0.6 inches per year (0.05 feet/year), the applicants' geologist estimates a total 75 year bluff retreat rate of 3.75 feet, occurring entirely within the upper portion of the bluff subject to erosion. Thus, the applicants consider 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, 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 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.

Commission staff agrees with the applicants' designated bluff edge, which has been depicted to meander between approximately +161 and +164 feet Mean Sea Level (MSL) ([Exhibit 3](#)). In this case, the 64 square foot seaward addition to the principal structure (which extends the seaward side of the house approximately 4 feet into the patio) is approximately 52 feet inland from the bluff edge, and the proposed 84 square foot spa is approximately 31-37 feet inland of the bluff edge, therefore these structural additions are landward the 25-foot setback from the bluff edge.

With regard to accessory structures that must be sited at least 10 feet from the bluff edge to minimize the potential for slope instability, the seaward extent of the proposed concrete patio (which contains several garden walls and planters) is approximately 19 feet inland of the bluff edge, with the exception of the proposed garden wall/planter that is proposed along the northern boundary of the yard, which is proposed to be constructed within 2-3 feet of the designated bluff edge.

Dr. Street has 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. He has also determined 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 applicants' 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.

Therefore, it is important that new development on site provide at least a 25-foot setback from the bluff edge for the primary residence and major additions, and a minimum 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, a portion of the applicants' proposed project (the western garden wall and northern garden wall/planter) is not consistent with the 10-foot setback requirements for accessory development. The garden wall and planter proposed to be constructed on the north and west side of the parcel will extend out to within approximately two feet of the bluff edge, and would be at a higher risk of being undermined by erosion. 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 that meanders between approximately +161 and +164 feet Mean Sea Level (MSL) as depicted in [Exhibit 3](#), demonstrating that all proposed components of the patio including garden walls and planters are setback at least 10 feet from the bluff edge. Furthermore, **Special Condition 8** 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 now or in the future. The applicants' 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 applicants 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 10** 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. 5-18-1153 including, but not limited to the patio and spa, 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 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 8**. 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 (5-18-1153) 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 12** requiring that the property owner record a deed restriction against the property, referencing all of the 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.

### **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.**

### **ESHA Designation**

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 or its host plant, sea-cliff buckwheat on the 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 the *Habitat Survey for 609 Paseo de la Playa, Coastal Development Permit Application No. 5-18-1153*, prepared by Biologist Ann Dalkey on November 12, 2018 ([Exhibit 5](#)). Ms. Dalkey's report describes the findings of a biological survey conducted on October 31, 2018, which included native and non-native vegetation. According to her assessment, the bluff is vegetated with a dense planting of non-native ornamental plants in a combination of trees with underlying ornamental plants and large shrubs. A single native species is present at the lower portion of the slope: salt bush (*Atriplex lentiformis*), which is present in seven large patches. The results of the survey also concluded that non-native plants cover approximately 90% of the property. Although no sea-cliff wild buckwheat, the host plant for the endangered El Segundo blue butterfly, nor the butterfly itself were found to be present on the project site, Ms. Dalkey did find that the native salt bush on site is providing a beneficial resource to wildlife.

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.

According to Commission staff's Senior Ecologist, Dr. Jonna Engel, the bluff in this location supports vegetation indicative of 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 ([Exhibit 6](#)). SCBS habitat, which is dominated by low shrubs and prostrate herbaceous species, is found on exposed bluffs above the ocean between Point Conception and the Mexican border. The bluff in this location is characterized by patches of salt bush, which is a native species indicative of SCBS habitat.

Although the vegetation on the bluff is predominantly non-native, the bluff consists of several bare areas that contain sandy soil, which are also characteristic of SCBS on relatively steep slopes ([Exhibit 6](#)). Also, according to Dr. Engel, most native habitat in California is invaded by non-natives to one degree or another and the fact that the SCBS in this location is invaded by non-native plant species is not unusual given the proximity of the project site with ornamental landscaping within a residential urban



setting. Moreover, the presence of nonnative vegetation and bare areas are actually characteristics of SCBS in urban settings, and such characteristics do not minimize its habitat value as ESHA. Furthermore, the SCBS below the subject homes is not a small, isolated patch of habitat, but rather part of a continuous stretch of SCBS habitat that stretches from Torrance Beach to Malaga Cove (over 4,000 linear feet), which supports SCBS plant species.

In addition to the presence of the rare plant species discussed above, Dr. Engel has determined that it is possible that the endangered El Segundo blue butterfly could potentially occur at the site because of historical observations of the butterfly made by other biologists within the Malaga Cove area in 2001 and 2008, which were approximately 60 feet south of the subject parcels ([Exhibit 6](#)). Furthermore, four Recovery Units (RUs), which are areas known to be inhabited by the butterfly and that contain restorable habitat, were established in a recovery plan for the ESB, one of which is Torrance.

Finally, the last element necessary for designating habitat as ESHA is the requirement that the habitat be easily disturbed or degraded by human activities. Dr. Engel has concluded that SCBS is easily disturbed and degraded by human activities such as the introduction of non-native and ornamental and invasive species, and clearing for trails and other types of development.

Therefore, according to Commission staff ecologist, Dr. Jonna Engel, the section of the coastal bluff below the residence at 609 Paseo de la Playa rises to the level of ESHA because it supports SCBS, which is one of the rarest and most threatened habitats in California, which is easily disturbed by human activities and could potentially provide habitat for El Segundo Blue Butterflies, which are an endangered species. Thus, the SCBS habitat that exists within the subject bluff, and as demarcated by Dr. Engel in [Exhibit 6](#), rises to the level of ESHA, and is entitled to protection under Section 30240 of the Coastal Act.

### **Impacts to ESHA**

Pursuant to subsection 30240(a) of the Coastal Act, development in designated ESHA is limited to uses that are dependent on the resource and must protect against any significant disruption of habitat values. Under section 30240(b), development that occurs adjacent to ESHA must be sited and designed to prevent impacts which would significantly degrade those areas, and must be compatible with the continuance of those habitat areas. Two components of the project may impact areas designated as ESHA, which include removal of the unpermitted development on the bluff face, and the habitat restoration.

The applicants have proposed to restore SCBS vegetation on the majority of the parcel below the graded area, which would revegetate approximately 12,000 square feet of bluff habitat ([Exhibit 8](#)). To ensure that potential impacts to the El Segundo Blue Butterfly are avoided, all work is scheduled to occur outside of its flight season. To ensure the proposed project incorporates and implements this measure, the

Commission imposes **Special Condition 5**, which specifies time and operation constraints to avoid adverse impacts on the butterfly.

However, if not properly conducted and monitored, the restoration program could fail to meet the performance standards specified and/or contribute to the spread of non-natives. Therefore, to ensure proper implementation of the proposed restoration, **Special Condition 2** requires the applicants to submit a monitoring report five (5) years from the date of the approval for Coastal Development Permit No. 5-18-1153 and final restoration program. If the report concludes that the restoration is not in conformance with or has failed to meet the performance standards specified in the restoration program approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental restoration plan for the review and approval of the Executive Director.

## **Analysis**

As discussed, Commission staff has determined that the section of the coastal bluff below the residence at 609 Paseo de la Playa is ESHA, which must be protected under Section 30240 of the Coastal Act. According to Subsection 30240(a) of the Coastal Act, only uses dependent on the resources are allowed within ESHA. Past Commission action identifies several examples of such uses, which include: habitat creation, restoration, and/or enhancement activities; public accessways, trails, and associated minor improvements; nature study, ESHA-related educational uses, etc. In this case, the removal of the unpermitted development proposed to occur in ESHA is allowable because its primary purpose is to restore the bluff and its habitat, which is use that is dependent on the resource. Moreover, the project has been conditioned to minimize impacts to the ESHA and to not significantly disrupt habitat values. Similarly, the development outside of ESHA has been conditioned to ensure that it is sited and designed to prevent impacts that would significantly degrade the ESHA. Thus, as conditioned, all of the proposed development is consistent with section 30240 of the Coastal Act.

## **D. Marine Resources and 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.**

There is a potential for discharge of polluted runoff from the project site into coastal waters as a result of the proposed development. Sections 30230 and 30231 of the Coastal Act require that marine resources and the biological productivity of coastal water be maintained and enhanced. Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal waters via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. However, construction best management practices will be implemented to avoid or minimize impacts to the environment. Therefore, the proposed project is not anticipated to result in any significant adverse impact to marine resources or water quality. In order to ensure prevention of adverse construction-related impacts upon marine resources and to minimize erosion, the Commission imposes **Special Condition 3 and 6** requiring the applicants to implement construction best management practices. 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. Coastal Access and Recreation**

Section 30210 of the Coastal Act states:

**In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.**

Section 30220 of the Coastal Act states:

**Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.**

Section 30221 of the Coastal Act states:

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

One of the basic goals stated in the Coastal Act is to protect public access and recreation along the coast. The Chapter 3 policies of the Coastal Act also require that development not interfere with public access.

The proposed development is located within an existing fully developed residential community located between the sea and the first public road paralleling the sea. Torrance Beach, a public beach, is located seaward of the applicants' property lines at the toe of the bluff. Public access through the privately owned residential lots in this community does not currently exist. Public access to Torrance Beach is available over a quarter of a mile north of the project site via public parking lots and footpaths at Redondo Beach. There is also a beach access way and public parking to the south of the project site in Palos Verdes Estates.

To the maximum extent possible, the applicant proposes to deliver materials and smaller equipment along the street side of the property from the top of the bluff and through the side yards. For the restoration work that is proposed to occur on the bluff face, the applicant proposes staging to occur on top of the bluff on the level pad between the proposed patio and the bluff edge. The applicant is not proposing to utilize the public beach for access to the site for restoration activities. To ensure public access to the beach will not be impeded by the proposed project, the Commission is imposing **Special Condition 4**.

As conditioned, the proposed development is not anticipated to result in any adverse impacts to existing public access or recreation in the area. In addition, the duration of the proposed development is not anticipated to exceed 3 months. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with 30210, 30220, 30221, and the other public access and recreation policies of the Coastal Act.

## **F. Visual Resources**

Section 30251 of the Coastal Act 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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.**

The Coastal Act protects the visual quality of scenic coastal 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 25 feet seaward from the existing house, which includes a 30-inch high garden wall approximately 30 linear feet in length approximately 30 feet from the existing house on the seaward end of the yard, which could be visible from the public beach below, impacting the public's view of the natural bluff. **Special Condition 1** requires the applicants to submit revised project plans eliminating the western-most garden wall and portion of the planter that encroaches into the 10-foot setback for ancillary structures, 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 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 **Special Condition 10** prohibits 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.

Furthermore, the applicants are proposing to remove the unpermitted bluff face development, and restore with native vegetation appropriate for southern bluff scrub habitat. As set forth in earlier discussion, after the proposed restoration is complete, the visual quality of the bluff will be improved as compared to the visual impacts of the unpermitted staircases and retaining walls that currently exist on the bluff.

The Commission finds that the proposed development does not present a significant visual impact to the scenic resources from the roadway or along the beach. Therefore, the Commission finds the project, as conditioned, consistent with the visual resource protection policies of Section 30251 of the Coastal Act.

## G. Coastal Access Violations

Violations of the Coastal Act have occurred on the subject property including, but not necessarily limited to, 1) construction of a spa on a coastal blufftop, 2) interior remodel and associated improvements, 3) grading on a coastal blufftop, 4) construction of a foot path, including staircases, on a coastal bluff, and 5) installation of ornamental vegetation on a coastal bluff. To address some portions of the unpermitted development, the applicant is applying for a coastal development permit for after-the-fact approval of the interior remodel; construction of a spa; and grading on a coastal blufftop. Approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's subsequent performance of the work authorized by the permit in compliance with all of the terms and conditions thereof the permit will result in resolution of the components of the violations described immediately above.

Historic aerial photographs from 1972 show that while the residential structure existed on the subject parcel prior to adoption of the Coastal Act, the bluff face trail did not. The trail is currently non-conforming to the Commission's 10-foot bluff edge setback guidance for accessory improvements/structures associated with a principal residential development on a bluff. The trail is inconsistent with Coastal Act policies to site development outside of hazardous areas. Commission staff has researched the historical existence of bluff face development in the subject area on the residential lot, and has determined that several lots have inconspicuous pioneered paths down the bluff face, and share a network of private trails, which appear in 1973 photographs. Several of these residential lots have received coastal development permits allowing the construction of stairs and/or trails, or walkways to the beach. The applicants' properties have a pioneered footpath extending down the bluff face that has been improved with wooden staircases and wooden retaining walls, and based on the 1972 aerial photographs of the bluffs, Commission staff has determined that the path did not exist prior to the effective date of the Coastal Act of January 1, 1977. To address and offset these impacts that accrued due to the unpermitted development, the applicants are proposing to remove the unpermitted retaining walls, foot path, staircases, and exotic vegetation the bluff face, and to restore the bluff face to natural Southern California Coastal Bluff Scrub (as described in this report).

Approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's subsequent performance of the work authorized by the permit in compliance with all of the terms and conditions thereof the permit will result in resolution of the above described violations on the coastal bluff.

Consideration of the permit application by the Commission has been based solely on consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. Approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's subsequent compliance with all terms and conditions of the permit will result in resolution of the above described violations. Approval of this permit is possible only because of the conditions included herein, and the applicant's presumed subsequent compliance with said conditions, and failure to comply with these conditions in conjunction with the exercise of this permit would also constitute a violation

of this permit and of the Coastal Act. Accordingly, the applicant remains subject to enforcement action just as it was prior to this permit approval for engaging in unpermitted development, unless and until the conditions of approval included in this permit are satisfied.

## **H. Local Coastal Program**

Coastal Act Section 30604(a) states that, prior to certification of a local coastal program (“LCP”), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3:

**(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 Chapter3 (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, lapsed. The major issues raised in the LUP were affordable housing, bluff top 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).

## **I. California Environmental Quality Act**

Section 13096 of 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 ay 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. Special Conditions imposed will mitigate adverse impacts to coastal resources and public access. The **Special Conditions** address the following issues: **1)** final revised plans; **2)** habitat restoration and monitoring plan; **3)** erosion control plan; **4)** staging; **5)** construction timing; **6)** best management practices; **7)** conformance with geotechnical recommendations; **8)** future development; **9)** spa protection plan; **10)** no future shoreline protective devices; **11)** assumption of risk; and **12)** a deed restriction. Therefore, the Commission finds that, as conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect of the proposed project, there are no remaining significant environmental impacts within the meaning of CEQA, and the project is consistent with CEQA and the policies of the Coastal Act.