

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: CONSENT CALENDAR

Application No.: 5-19-0592

Applicant: Wonderbird Properties California, LLC

Agent: Andrea Van den Eikhof

Location: 1024 Palisades Beach, Santa Monica, Los Angeles County (APN: 4292-031-001)

Project Description: Remodel and 1,653 sq. ft. addition to an existing three-story, 5,934 sq. ft. single-family dwelling, including 290 cu. yd. of grading.

Staff Recommendation: Approval with conditions.

STAFF NOTE: Under the Permit Streamlining Act, the Commission must act on this coastal development permit application (CDP) on or before **June 15, 2020**, 180 days after filing of the CDP application. However, on April 16, 2020, the Governor of the State of California issued Executive Order N-52-20 tolling the time-frames for action in the Permit Streamlining Act for 60 days. Accordingly, the Commission must act on this CDP application on or before **August 14, 2020**

SUMMARY OF STAFF RECOMMENDATION

The proposed project is the remodel of an existing three-story, single-family residence on a beachfront lot located in Santa Monica's Northern State Beach area, in the City of Santa Monica, Los Angeles County.

Commission staff is recommending **APPROVAL** of a permit for the proposed project with 12 special conditions. No shoreline protective device is proposed to protect the development pursuant to this permit. To ensure the final project plans reflect this, the Commission imposes **Special Condition No. 1** requiring review of the final plans and written approval from the Executive Director prior to permit issuance. The final plans shall also adhere to the recommendations of the submitted geotechnical report in accordance with **Special Condition No. 2**, which requires all final submitted plans to show proof of review from a licensed professional. The project proposes removal of all existing plants, with minimal replacement landscaping proposed. Thus, the Commission imposes **Special Condition No. 3**, which shall ensure that all future vegetated landscape areas consist only of native plants or non-native, drought-tolerant plants which are non-invasive. **Special Condition No. 4** further ensures ecosystem preservation through the use of construction materials which prevent future bird-strikes.

During construction and post-construction, the proposed project has the potential for adverse impacts to water quality and marine resources. Therefore, the Commission imposes **Special Conditions No. 5-7**, which ensure compliance with safe construction practices, staging of materials, and water quality standards as outlined by the City of Santa Monica.

The proposed project is located in an area where coastal hazards exist and could adversely impact the development. Because the applicant has proposed alterations to the existing residence with full understanding of the site vulnerability, the Commission imposes **Special Condition No. 8** requiring the applicant to assume liability for any future injury or damage incurred from coastal conditions threatening the development. In further consideration of the hazardous project location, the Commission shall regulate future development by imposing **Special Condition No. 9**, which requires an amendment to Coastal Development Permit (CDP) No. 5-19-0592, or an additional CDP, for any future development on the site including actions that would otherwise be exempt from permit conditions. The Commission will ensure the lack of shoreline protective devices for this development will be upheld with **Special Condition No. 10**, which prohibits any future shoreline protective device necessary to protect the development authorized by this permit, and **Special Condition No. 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. Lastly, the Commission imposes **Special Condition No. 12** specifying that the issuance of this permit shall not constitute a waiver of the public rights that exist, or may exist, on the property.

As conditioned, the proposed project will conform with Chapter 3 of the Coastal Act, which, due to the lack of a certified Local Coastal Program (LCP) for the City of Santa Monica, is the standard of review.

The motion to approve CDP No. 5-19-0592 is on **Page 4**. The special conditions begin on **Page 5**.

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EXHIBITS

[Exhibit 1 – Project Location](#)

[Exhibit 2 – Site Plan](#)

[Exhibit 3 – Elevation Plan](#)

[Exhibit 4 – Building Section Plan](#)

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** the Coastal Development Permit applications included on the consent calendar in accordance with the staff recommendations.

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

Resolution:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

- 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

1. Submittal of Revised Final Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit final plans for the proposed development. The final plans shall be in substantial conformance with the plans submitted with this application by Appleton Partners, LLP dated September 24, 2019 and by LC Engineering Group, Inc dated February 18, 2020, and shall be subject to the review and written approval of the Executive Director, and shall include:

A. A plan note stating that any development, including landscaping and fencing, is prohibited in the leased state tides seaward of the western property line.

B. A plan note stating that drainage of the swimming pool onto the beach is prohibited.

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

2. Final Plans Conforming to Geotechnical Recommendations

A. By acceptance of this permit, the applicant agrees that all final design and construction plans shall be consistent with all recommendations contained in Wave Runup & Coastal Hazard Report for New Residences, 1024 Palisades Beach Road, Santa Monica, CA, by GeoSoils, Inc., dated August 12, 2019. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the Executive Director's review and approval, two full sets of plans with evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all the recommendations specified in the above-referenced report.

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

3. Landscaping with Drought-Tolerant, Non-Invasive Plants. By acceptance of this permit, the applicant agrees that vegetated, landscaped areas shall consist of primarily native plants or non-native, drought-tolerant plants which are non-invasive. No plant species listed as problematic and/or invasive by the [California Native Plant Society](#), the [California Invasive Plant Council](#) (formerly the California Exotic Pest Plant Council), or as may be identified by the State of California, shall be employed or allowed to naturalize or persist on the site. No plant species listed as “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water-use plants as identified by the [California Department of Water Resources](#).

4. Bird Strike Prevention

A. Ocean-front deck railing systems, fences, screen walls and gates subject to this permit shall use materials designed to minimize bird-strikes with the deck railing, fence, or gate. Such materials may consist, all or in part, of wood; wrought iron; frosted or partially-frosted glass, Plexiglas or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or Plexiglas shall not be installed unless they contain UV-reflective glazing that is visible to birds or appliqués (e.g. stickers/decals) designed to reduce bird-strikes by reducing reflectivity and transparency are also used. Any appliqués used shall be installed to provide coverage consistent with manufacturer specifications (e.g. one appliqué for every 3 ft. by 3 ft. area) and the recommendations of the Executive Director. Use of opaque or partially opaque materials is preferred to clean glass or Plexiglas and appliqués. All materials and appliqués shall be maintained throughout the life of the development to ensure continued effectiveness at addressing bird strikes and shall be maintained at a minimum in accordance with manufacturer specifications and as recommended by the Executive Director.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit final revised plans showing the location, design, height and materials of fences, screen walls and gates for the review and approval of the Executive Director. Said plans shall reflect the requirements of this special condition.

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

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

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

- 1) No construction materials, debris, or waste shall be placed or stored where it may be subject to water, wind, rain, or dispersion;
- 2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- 3) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
- 4)) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
- 5) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

B. Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:

- 1) The 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;
- 2) The applicant shall develop and implement spill prevention and control measures;
- 3) 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-ft. away from a storm drain, open ditch or surface water; and
- 4) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

6. Construction Staging Plan. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and approval of the

Executive Director a construction staging plan that does not utilize any public sidewalks, parking lots, or public streets for construction staging areas. The construction staging shall not take place on any sandy areas or beach.

7. Water Quality Standards. With the acceptance of this permit the applicant agrees to comply with all applicable City of Santa Monica water quality requirements as required under the City's Municipal Code that are in effect at the time of approval of this permit.

8. Assumption of Risk, Waiver of Liability, and Indemnity. By acceptance of this permit, the applicant acknowledges and agrees (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 applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

9. Future Development. This permit is only for the development described in CDP 5-19-0592. Pursuant to Title 14 California Code of Regulations Section 13250(b) (6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-19-0592. Accordingly, any future improvements to the single-family residence authorized by this permit shall require an additional CDP from the Commission or from the applicable certified local government. In addition, an amendment to CDP 5-19-0592 from the Commission or an additional CDP from the Commission or applicable certified government shall be required for any repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b).

10. No Future Shoreline Protective Device.

A. By acceptance of this permit, the applicant agrees, on behalf of themselves and all other successors and assigns, that no shoreline protective device(s) shall be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-19-0592 including, but not limited to, the residence, garage and foundations and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea-level rise, or any other coastal hazards in the future. By acceptance of this permit, the applicant agrees that the proposed project is not entitled to shoreline protection and hereby waives, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under applicable laws.

B. By acceptance of this permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner(s) is required to remove the development authorized by this permit, including the residence, basement, and yard improvements if the City or any government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structure is currently and permanently unsafe for occupancy or due to coastal hazards and that there are no measures that could make the structure suitable for habitation or use without the use of bluff or shoreline protective devices.

C. In the event that portions of the development fall to the beach or are submerged before they are removed, the landowner(s) shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site and relocated any salvageable portions of the development inland. Such removal shall require a coastal development permit.

11. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcels governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

12. Public Rights. The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the property. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property now or in the future.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Location

The site is located at 1024 Palisades Road (Pacific Coast Highway), north of the Santa Monica pier, in the North Beach area of the City of Santa Monica (**Exhibit 1**). The beachfront lot is zoned R2 (Low Density Residential/ Beach Overlay), and the proposed project is consistent with all R2 zoning policies. The North Beach area provides a broad, sandy beach, approximately 800-ft. wide, and contains the City's northern beach clubs,

as well as single-family and multi-family residential development. The subject lot is located within a row of residentially developed lots and public beach parking lots. A public pedestrian walkway is located on the sandy beach seaward of the property's western property line and a public parking lot is located adjacent to the south.

The applicant proposes to remodel the existing 36.5-ft. high, three-story over basement, 5,934 sq. ft. single-family residence, resulting in a 36.5-ft. high, three-story over basement, 7,587 sq. ft. single-family residence with a 519 ft. swimming pool (1,653 sq. ft. of additions and 290 cubic yards of grading) (**Exhibits 2-4**).

The project proposes primarily to remodel the existing basement to include: a new waterproof concrete slab installed 1-foot lower in the ground, waterproof exterior walls and water stops at existing wood pier joints, and waterproof entrance doors designed to withstand high water pressure with flooding. A trench drain will also be installed at the bottom of the exterior west entrance stairs. The remodel will additionally include replacement of the interior east stairs and the addition of 1,009 sq. ft. to the existing 1,481 sq. ft. basement.

The project also proposes improvements to the existing single-family residence, including resizing of the existing garage doors for larger entrances, a new terrace on the seaward patio, and an addition of 260 sq. ft. on the first floor. A new 519 sq. ft. swimming pool is also proposed seaward of the existing residence. The first floor will retain the existing attached two-car garage and two additional on-site parking spaces, for a total of four parking spaces.

The second floor will be retrofitted with a new seaward balcony and an addition of 384 sq. ft.. On the third floor, the applicant proposes removal and replacement of existing windows. The project also includes a new balcony on the third floor. Finally, the applicant proposes to replace the existing chimney and skylight, as well as improvements to the roof structure above the first-floor terrace and a new parapet.

The proposed project is consistent with the City of Santa Monica 40-ft. maximum height limit. The Commission has also historically required 4-ft. wide view corridors in the north and south side yards of Santa Monica beachfront properties. The additions and new structures proposed by the project do not encroach within the 4-ft. wide view corridors, and are consistent with the subject local Municipal Code. Furthermore, the public parking lot located on the adjacent south side of the property provides an expansive view of the beach. The proposed new pool on the seaward side of the property shall be regulated by **Special Condition No. 1**, which requires submittal of revised plans documenting that drainage of the swimming pool onto the beach is prohibited. **Special Condition No. 2** requires that the final submitted plans also comply with the recommendations of a licensed geotechnical professional.

The project includes removal of the existing planters and landscaping on the seaward patio, with no installation of replacement landscaping. The future placement of any vegetation identified as invasive by the [California Invasive Plant Council](#) and the [California Native Plant Society](#) could quickly supplant native vegetation in the area.

Furthermore, any plants in the landscape plan shall primarily consist of drought-tolerant species to minimize the use of water. The term 'drought-tolerant' is equivalent to the terms 'low water use' and 'ultra-low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California," prepared by University of California Cooperative Extension and the California Department of Water Resources, dated August 2000. Therefore, in order to minimize the use of water and the spread of invasive vegetation, the Commission imposes **Special Condition No. 3**, which imposes landscape controls that require that all vegetated landscaped areas shall consist of native plants or non-native drought tolerant plants, which are non-invasive. Additionally, the beachfront location of the subject site may increase the risk of bird-strikes associated with proposed transparent structures. The Commission reduces this risk with **Special Condition No. 4** requiring the use of bird-strike prevention measures, such as UV-reflective glazing or appliqués.

The project will necessitate significant construction and equipment staging, which could result in discharge of hazardous materials into coastal waters and violate Sections 30230 and 30231 of the Coastal Act. Examples of adverse impacts from mismanagement before and after construction include the displacement of soft-bottom habitat by construction debris; release of toxic lubricants and oils into marine life biomes; increased turbidity from discharged sediment, resulting in shade and an impediment to foraging avian and marine species; and acceleration of nearby soil erosion, among other possible impacts. The Commission therefore imposes **Special Condition No. 5-7**, which require the use of Best Management practices and minimize harmful runoff produced by construction.

Due to the width of the beach, location of the Santa Monica breakwater, and Pier to the south, properties along the north beach are generally protected from wave impacts and have not required shoreline protection. The applicant's coastal hazards report prepared by GeoSoils, Inc. on August 12, 2019 indicates that, even in the event of sea level rise and extreme storm conditions, the residence will be protected from wave action by approximately 800 ft. of existing sandy beach located between the mean high tide line and the project location.

The analyses state that the highest historical ocean water elevation in the project area is + 5.9 ft. above the National Geodetic Vertical Datum of 1929 (NGVD29). Palisades Beach Road, the public street which fronts the project site, is at an elevation of +18.5 ft. NGVD29 and the beach at the rear of the project site is at elevation +15 ft. NGVD29. The proposed lowest finished floor elevation of the residence would be +9.5 ft NGVD29, which allows a safe distance between the lowest floor and the groundwater elevation identified at +8 ft. NGVD29.

It should be noted that as of July 2007, FEMA began using an updated vertical datum and deemed NGVD29 no longer supported by the federal government. FEMA has further specified, however, that their change in datum use has not rendered the relationships between ground height and water surface levels recorded by NGVD29 to be inaccurate. (See Appendix A.) The primary effect of the datum change has been differing values assigned to each elevation, thus allowing distances between elevations

to remain unchanged. Because the applicant's hazard report uses NGVD29 consistently, the safe amount of distance between the groundwater elevation and lowest basement level can be considered a reliable assessment. The applicant has accommodated the low risk of groundwater flooding in the basement through inclusion of a portable sump pump in construction plans, for the unlikely event of de-watering operations.

In November 2018, the Commission adopted an update to their CCC Sea Level Rise Policy Guidance. This update was in response to evolving science on sea level rise, and specifically to new statewide guidance from the Ocean Protection Council (OPC) based on two reports: "Rising Seas in California: An Update on Sea-Level Rise" released in April 2017 and the OPC's "State of California Sea-Level Rise Guidance" update released in April 2018. The OPC guidance states that medium-high risk aversion projections suggest sea levels may rise between 5.3 feet and 6.7 feet by the year 2100¹.

In the event of a 5.3-ft. rise in sea level, (the lower range of currently recommended OPC projections for Southern California residences), a likely high tide still water level of +11.2 NGVD29 could result. This predicted ocean elevation would be 1.7 ft. above the proposed lowest finished floor elevation of +9.5 ft. NGVD29. In the event of a 6.7-ft. rise in sea level, (the upper range of currently recommended OPC projections for Southern California residences), a likely high tide still water level of +12.6 NGVD29 could result. This predicted ocean elevation would be 3.1 ft. above the proposed lowest finished floor elevation of +9.5 ft. NGVD29. Both the lower and higher estimations of high tide with sea level rise exceed the lowest elevation of the proposed residence. However, the coastal hazards report indicates even these high tide elevations would be unlikely to result in wave damage at the subject site, due to the 800 ft. wide beach extending between the mean high tide line and the subject lot.

This is further confirmed by the regional sea level rise modeling tool used to assess vulnerability of coastal areas, the U.S. Geologic Survey Coastal Storm Modeling System (COSMOS). When showing the impacts of 6.6. ft. of sea level rise in conjunction with a 100-year storm event, COSMOS does not indicate a risk of flooding directly on the subject lot. It does, however, indicate the parking lot on the southern side of the property as a low-lying, flood-prone area, which could introduce flooding into the sub-surface basement on the site. This scenario is presented as a possibility only in the event of extreme weather conditions, and thus presents a relatively low risk to the property. That said, coastal areas are dynamic environments and it is possible that the project site may be impacted by coastal hazards at some point in the future due to rising seas. As the project primarily involves improvements to an existing basement and

¹ 2095 would be the end of the project's estimated 75-year design life; thus the range of SLR for 2100 overstates current expected impacts under the medium-high risk scenario. However, sea level rise science is continuously updated and the precautionary principle suggests residential development should be sited and designed to adapt to the upper range of potential impacts.

single-family residence, it is not expected to result in significant new impacts to coastal resources, or new or different coastal hazards.

The applicant has further minimized the risk of flooding with the inclusion of comprehensive waterproofing measures in the proposed basement remodel, including installation of an exterior door designed to withstand water pressure and a trench drain at the base of the western entrance stairs. Given that the applicant has chosen to proceed with the project despite the aforementioned risks inherent to development on a beachfront lot, the Commission imposes **Special Condition No. 8** to ensure that the applicant is aware of all hazards associated with developing in a vulnerable coastal area, and that the Coastal Commission—including all officers, agents, and employees—shall not be held responsible for damages that occur as a result of the aforementioned hazards.

While the coastal hazard report and COSMOS indicate the site as safe for the proposed re-development, shorelines are inherently dynamic areas. Our understanding of expected sea level rise continues to evolve with new information and cannot be predicted with absolute certainty. The current project does not propose any shoreline protective devices, and forgoes the right to future shoreline protection of the proposed development. Thus, the Commission imposes **Special Condition No. 10**, requiring the applicant's agreement on behalf of itself, as well as all successors and assigns, that no bluff or shoreline protect device(s) shall be constructed to protect the development approved pursuant to CDP No. 5-19-0592, including, but not limited to, the residence, garage and foundations and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, landslides, sea level rise, or other natural coastal hazards. Additionally, **Special Condition No. 10** requires that the development authorized by this permit shall be removed 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 structure is currently and permanently unsafe for occupancy or due to coastal hazards and that there are no measures that could make the structure suitable for habitation or use without the use of bluff or shoreline protective devices. **Special Condition No. 9** requires an amendment to the current CDP, or a new CDP, for any future work occurring on the site including that which would otherwise be exempt from permit requirements. The Commission also imposes **Special Condition No. 11** to require recordation of the permit conditions against the property, ensuring future property owners are aware of the aforementioned protections and conditions.

Lastly, the existing building to be remodeled is landward of, and adjacent to, the western property line (1921 mean high tide line). The 1921 mean high tide line was formally established as the legal property line between public and private property in this location, pursuant to a settlement between State Lands, City of Santa Monica and the various property owners. Although the Commission was not a party to the settlement, the Commission has required that no private, permanent improvements extend onto the leased state lands beyond the 1921 mean high tide line, which is memorialized in **Special Condition No. 1**. All proposed development included in this project is located landward of the 1921 mean high tide line. This shall be guaranteed by

Special Condition No. 12, which specifies that issuance of CDP No. 5-19-0592 shall not constitute a waiver of any public rights that exist or may exist on the property.

B. Hazards

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to: require an appropriate set-back from the water; require a drainage and runoff control plan to direct, treat, and minimize the flow of water offsite; prohibit construction of protective devices (such as a seawall) in the future; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

C. Public Access

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. As conditioned, the Commission finds that the development conforms with Sections 30210 through 30214, Section 30220 through 30224, and 30252 of the Coastal Act.

D. Water Quality

The development, as proposed and as conditioned, incorporates design features to minimize the effects of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate staging plans for equipment and construction materials, the use of best management practices during and after construction, and compliance with the City of Santa Monica's water quality provisions. As conditioned, the Commission finds that the development 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. Deed Restriction

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition No. 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, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

F. Local Coastal Program

Coastal Act section 30604(a) states that, prior to certification of an LCP, a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Commission has certified the City's Land Use Plan (LUP). However, the City does not yet have a certified Implementation Plan. Therefore, the Chapter 3 policies of the Coastal Act are the standard of review, with the certified LUP used as guidance. The proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

G. California Environmental Quality Act

Section 13096(a) of the Commission's regulations requires Commission approval of Coastal Development Permit applications 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).

Under Section 15251(c) of Title 14 of the California Code of Regulations, the Commission's CDP regulatory process has been certified as the functional equivalent to the CEQA process. As a certified regulatory program, Section 21080.5(d)(2)(A) of CEQA still applies to the Commission's CDP regulatory process and prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect which the activity may have on the environment. The City of Santa Monica is the lead agency for the purposes of CEQA. The City determined that the proposed development was categorically exempt from CEQA requirements pursuant to CEQA Guidelines Sections 15301 (Class 1) and 15303 (Class 3).

The 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)** compliance with approved plans; **2)** compliance with geotechnical recommendations; **3)** landscaping with drought-tolerant, non-invasive plants; **4)** prevention of bird-strikes **5)** construction best management practices; **6)** safe staging of construction equipment; **7)** drainage and run-off control practices; **8)** assumption of risk; **9)** CDP requirements for future on-site development; **10)** no future shoreline protective devices; **11)** deed restriction; and **12)** upholding of public rights on the site. 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.

APPENDIX A – Substantive File Documents

City of Santa Monica Certified Land Use Plan.

Vertical Datum: New Mapping Studies Convert to Updated Vertical Datum. FEMA, July 2007. https://www.fema.gov/media-library-data/20130726-1615-20490-4828/vertical_datum_letter.pdf

Wave Runup & Coastal Hazard Report for New Residence, 1024 Palisades Beach Road, Santa Monica, California prepared by GeoSoils, Inc. dated August 12, 2019.

Rising Seas in California: An Update on Sea-Level Rise. OPC, April 2017. <http://www.opc.ca.gov/webmaster/ftp/pdf/docs/rising-seas-in-california-an-update-on-sea-level-rise-science.pdf>

State of California Sea-Level Rise Guidance. OPC, April 2018. http://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20180314/Item3_Exhibit-A_OPC_SLR_Guidance-rd3.pdf