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APPEAL STAFF REPORT: SUBSTANTIAL ISSUE DETERMINATION & DE NOVO HEARING

Appeal Number: A-2-PAC-19-0160

Applicant: Phoenix Capital LXV LLC

Appellants: GRG/Pacific Ventures, Ltd. and Nicholas Langhoff

Local Decision: City of Pacifica Coastal Development Permit Application Number CDP-395-18, approved by the City of Pacifica City Council on June 24, 2019

Project Location: Undeveloped property on the inland side of the northernmost end of Beach Boulevard (1567 Beach Boulevard, APN 016-011-019) in the City of Pacifica

Project Description: Construction of a seven-unit condominium complex, with a 7,249 square-foot, three-story building with 4 condos nearest Beach Boulevard and a 6,779 square-foot, two-story building with 3 condos inland of the first building (with common space between them and parking areas on the ground floors of the buildings), on a 19,476 square-foot vacant parcel

Staff Recommendation: Substantial Issue Exists; Approval with Conditions

PROCEDURAL NOTE

The Commission will not take testimony on the “substantial issue” portion of this recommendation unless at least three commissioners request it. The Commission may ask questions of the Applicant, any aggrieved person, the Attorney General or the Executive Director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally and at the discretion of the Chair limited to three minutes total per side. Only the Applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will immediately follow, unless it has been postponed, during which the Commission will take public testimony. (California Code of Regulations, Title 14, Sections 13115 and 13117.)

SUMMARY OF STAFF RECOMMENDATION

On June 24, 2019, the City of Pacifica approved a coastal development permit (CDP) for the construction of seven condominium units in two buildings on a vacant lot at 1567 Beach Boulevard in the City of Pacifica. The Appellants contend that the City-approved project raises City of Pacifica Local Coastal Program (LCP) conformance issues with respect to coastal hazards and armoring, sand supply, neighborhood and community character, and public access and parking. Specifically, the Appellants contend the approved development is inconsistent with the certified LCP because it: 1) was approved based on inadequate hazard analysis and risk assessment, 2) does not minimize risks to life and property, in particular with respect to site access, 3) relies on City-owned armoring over which the Applicant has no control and that has a shorter expected remaining life than that of the proposed development, 4) may require significant improvements to the City’s armoring to protect the safety of the structures and residents, leading to significant adverse effects on coastal resources, 5) is inconsistent with the character of the existing neighborhood, and 6) does not bolster public access and beach parking.

Staff agrees the City-approved project raises a substantial issue with regards to coastal hazards and armoring (particularly in terms of the impacts from same) and public access related to parking. In terms of hazards and armoring, the LCP requires that new development minimize risks to life and property in areas of high coastal hazards, that it be set back adequately to accommodate a 100-year storm event and to ensure stability for the design life, as defined by the LCP as generally a 100-year period,¹ and prohibits development that would require armoring to ensure safety and stability during its lifetime. If the required setback would render a site undevelopable, the LCP provides that the setback may be reduced by the minimum extent necessary to allow

¹ Where the policy requires such stability for the expected life of the structure, which the LCP states is the time frame in which the designer expects the development to safely exist, generally 100 years.

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economically viable development. In this case, the City approved the proposed development without an adequate analysis of coastal hazards, particularly as it relates to estimated sea level rise, and as a result did not impose any type of LCP-required coastal hazard setback. In addition, the City evaluated the project as relying on the City's armoring to ensure stability, which the LCP does not allow, and didn't evaluate the coastal resource impacts of the armoring, including in terms of sand supply and its effect on beaches. As such, the City's approval raises a substantial LCP conformance issue on these points.

In terms of public access and parking, the LCP requires that new development provide adequate off-street parking to meet its parking demand, including in order to maintain, enhance, and not adversely impact public access to the coast, and further indicates that public beach parking at the north end of Beach Boulevard (i.e., at the proposed project location) should be considered along with future development in close proximity to this area. Here, the City-approved project includes only two spaces per unit despite the units containing up to five bedrooms, and it only provides one guest space for the entire development. While these may meet minimum required zoning standards, this amount of parking does not appear adequate to account for all of the development's off-street parking demand, and as such it would appear likely that the project will negatively impact on-street beach and visitor parking, inconsistent with the LCP. The City's approval raises a substantial LCP conformance issue on this point as well.²

Accordingly, staff recommends that the Commission find that a **substantial issue** exists with respect to the City-approved project's conformity with the LCP and that the Commission take jurisdiction over the CDP application for the proposed project.

For the purposes of de novo review of that CDP application, the Applicant provided additional information to staff, including an analysis of the estimated required coastal hazards setbacks for the proposed project under a variety of scenarios (including without shoreline armoring, with no seawall but with a revetment, and with the City armoring), all of which incorporate sea level rise and wave overtopping projections to help estimate potential erosion and flood hazards over time for the site. Staff (including the Commission's senior coastal engineer, Dr. Lesley Ewing, and coastal geologist, Dr. Joseph Street) reviewed that information and other relevant coastal hazard documentation and determined that the required LCP-consistent setback would extend

² Although large in scale, staff does not believe that the City's approval raises a substantial issue with respect to community character, including because the development is similar in size, scale, and general design with the two adjacent buildings between Paloma Avenue and the northern terminus of Beach Boulevard, as well as other development in the general area, despite the LCP's vision for 'bungalow style' development here. It does raise some question about how the massing nearest the street might impact overall public coastal views, particularly from along the Beach Boulevard public promenade, but this is a fairly developed section of the City, and the City's determination on this point could be supported by the evidence in the record. And although the LCP describes maintaining a mix of price points for housing, and this would be market rate condos on the highest end of the mix, it could be argued to be a part of that mix. That is not to say that there couldn't be a different conclusion in a de novo review, but rather that there is evidence to support the City's decision in this respect.

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inland of the site, which would render the entire site undevelopable. In such a circumstance, the LCP allows for a reduced setback to the extent necessary to permit an economically viable development.

Staff considered a variety of reduced setbacks based on multiple criteria to meet that LCP test, and ultimately found it reasonable to consider the effect of the City-owned armoring currently fronting Beach Boulevard on the opposite side of the street from the site (with a City-estimated life expectancy of 40 years), and then to assume hazard exposure after that time under a no armoring scenario to account for the uncertainty associated with future redevelopment of the armoring, as well as future uncertainties regarding opportunities for adaptation, sea level rise, and the degree and frequency of coastal hazards. Based on this analysis, staff recommends a 105-foot setback to accommodate both coastal hazards and an economically viable development, as directed by the LCP. It would appear that such a setback would essentially reduce the project by half but would provide the appropriate LCP balance considering the effects of coastal hazards as they relate to this site and this area. Proposed conditions of approval include a revised site plan showing development behind the required setback line, a prohibition against future shoreline armoring to protect this development, triggers for future removal/relocation instead of shoreline armoring, redesign for access to come from the southern end of the property, and a waiver of liability.

As conditioned, the project can be found consistent with the applicable policies of the certified LCP and the Coastal Act's access and recreation policies, and staff recommends that the Commission approve a conditioned CDP for the proposed development. The motions and resolutions for the recommended substantial issue determination and CDP action are found below on page 6.

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APPENDICES

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EXHIBITS

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[Exhibit 2 – Site Conditions](#)

[Exhibit 3 – Site Photos](#)

[Exhibit 4 – City’s Notice of Final CDP Action](#)

[Exhibit 5 – Appellants’ Contentions](#)

[Exhibit 6 – Commission Staff Geotechnical Review Memorandum](#)

[Exhibit 7 – Commission Staff Flood and Overtopping Risks Memorandum](#)

[Exhibit 8 – Required Coastal Hazard Setback](#)

[Exhibit 9 – Coastal Commission Comment Letters to City](#)

I. MOTIONS AND RESOLUTIONS

A. Substantial Issue Determination

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of substantial issue would bring the CDP application for the proposed project under the jurisdiction of the Commission for de novo hearing and action. To implement this recommendation, staff recommends a **NO** vote on the following motion. Failure of this motion will result in a de novo hearing on the CDP application and adoption of the following resolution and findings. Passage of this motion will result in a finding of no substantial issue, and the local action will become final and effective. The motion passes only by affirmative vote of a majority of the Commissioners present.

Motion to find substantial issue: I move that the Commission determine that Appeal Number A-2-PAC-19-0160 raises no substantial issue with respect to the grounds on which the appeals have been filed under Section 30603 of the Coastal Act, and I recommend a no vote.

Resolution to find substantial issue: The Commission hereby finds that Appeal Number A-2-PAC-19-0160 presents a substantial issue with respect to the grounds on which the appeals have been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Program and the public access and recreation policies of the Coastal Act.

B. CDP Determination

Staff recommends that the Commission, after public hearing, **approve** a CDP with conditions for the proposed development. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Motion to approve CDP: I move that the Commission approve Coastal Development Permit Number A-2-PAC-19-0160 pursuant to the staff recommendation, and I recommend a yes vote.

Resolution to approve CDP: The Commission hereby approves Coastal Development Permit Number A-2-PAC-19-0160 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of the City of Pacifica certified Local Coastal Program and with the public access policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Applicant to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Revised Project Plans.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit two full size sets of Revised Project Plans to the Executive Director for review and written approval. The Plans shall be prepared by a licensed professional or professionals (i.e., geotechnical engineer, surveyor, etc.), shall be based on current professionally surveyed and certified topographic elevations for the entire site, and shall include a graphic scale. The Plans shall be substantially in conformance with the proposed plans (titled 1567 Beach Boulevard and dated received in the Coastal Commission's North Central Coast District Office on July 15, 2019; see **Exhibit 4**) except that they shall be modified to meet the following requirements:
 - a. **Setbacks.** All development shall be set back at least 105 feet from the landward edge of the Beach Boulevard seawall and the natural bluff as generally depicted in **Exhibit 8** except for required landscaping and driveway, drainage, and utility infrastructure extending from Beach Boulevard to inland of the setback line.
 - b. **Site Access.** All site access (i.e., driveway, drainage, and utility infrastructure) from Beach Boulevard shall be relocated from the northern boundary of the property to the southern boundary of the property.

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- c. Parking.** Off-street parking shall be provided at a rate of 1 parking space per each one bedroom or studio unit, 2 parking spaces per each two bedroom or more unit, and 1 guest parking space for every four units (where fractions of spaces shall be rounded up (e.g., 6 units would require 2 guest parking spaces). Signs shall be installed that make clear that the public is able to access and use the area north of Paloma Avenue on Beach Boulevard for parking and general access.
- d. Design.** The design and appearance of all development shall reflect a simple bungalow style design theme (i.e., balanced and proportional but simple and utilitarian lines and natural materials including use of wood, board and bats, muted earth tone colors, etc., sloping roofs, porches, exposed beams and rafters, columns, etc.). The plans shall clearly identify all measures that will be applied to ensure such design aesthetic is achieved, including with respect to all structures and all other project elements within view of Beach Boulevard and other public viewing areas, and all development shall be sited and designed so as to limit its visibility from such areas to the maximum extent possible. All structures shall require articulation to avoid boxiness and large flat planes, including upper floors setback further from lower floors, no overhanging elements, etc.). At a minimum, the plans shall clearly identify all structural elements, materials, and finishes (including through site plans and elevations, materials palettes and representative photos, product brochures, etc.). Development shall blend into the public coastal viewshed as much as possible.
- e. Windows and Other Surfaces.** All windows shall be non-glare glass, and all other surfaces shall be similarly treated to avoid reflecting light, and all windows shall be bird-safe (i.e., windows shall be frosted, partially frosted, or otherwise treated with visually permeable barriers that are designed to prevent bird strikes).
- f. Lighting.** Exterior lighting shall be wildlife-friendly, shall use lamps that minimize the blue end of the spectrum, and shall be limited to the minimum lighting necessary for pedestrian and vehicular safety purposes. All lighting (exterior and interior) shall be sited and designed so that it limits the amount of light or glare visible from offsite to the maximum extent feasible (including through uses of lowest luminosity possible, directing lighting downward, etc.). The plans shall be submitted with documentation demonstrating compliance with these lighting requirements.
- g. Permeable Surfaces.** Permeable materials shall be used in lieu of non-permeable treatments for the driveway, outdoor patios, all walkways, and any other exterior hard surfaces. This may include the use of permeable concrete or stone pavers, open-cell concrete blocks, porous pavement, or other pervious material that allows water to drain and percolate into the soil below.
- h. Utilities.** All utilities shall be installed underground.

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- i. Stormwater and Drainage.** The plans shall clearly identify all stormwater and drainage infrastructure and related water quality measures (e.g., pervious pavements, etc.), with preference given to natural BMPs (e.g., bioswales, vegetated filter strips, etc.). Such infrastructure and water quality measures shall provide that all project area stormwater and drainage is filtered and treated to remove expected pollutants prior to discharge and directed to existing stormwater inlets/outfalls as much as possible. Infrastructure and water quality measures shall retain runoff from the project onsite to the maximum extent feasible, including through the use of pervious areas, percolation pits and engineered storm drain systems. Infrastructure and water quality measures shall be sized and designed to accommodate runoff from the site produced from each and every storm event up to and including the 85th percentile 24-hour runoff event. In extreme storm situations (i.e., greater than the 85th percentile 24-hour runoff event storm) where such runoff cannot be adequately accommodated onsite through the project's stormwater and drainage infrastructure, any excess runoff shall be conveyed inland offsite in a non-erosive manner. All drainage system elements shall be permanently operated and maintained, and the plans shall identify all maintenance parameters for all stormwater and drainage infrastructure and related water quality measures, including based on manufacturers recommendations, which shall be provided. At a minimum, all traps/separators and/or filters shall be inspected to determine if they need to be cleaned out or repaired prior to October 15th each year, prior to April 15th each year, and during each month that it rains between November 1st and April 1st. Clean-out and repairs (if necessary) shall be done as part of these inspections. At a minimum, all traps/separators and/or filters must be cleaned prior to the onset of the storm season, no later than October 15th of each year. Debris and other water pollutants removed from filter devices during clean-out shall be contained and disposed of in a proper manner. All inspection, maintenance and clean-out activities shall be documented in an annual report submitted to the Executive Director no later than June 30th of each year. It is the Permittee's responsibility to maintain the drainage system in a structurally sound manner and its approved state.
- j. Landscaping and Irrigation.** The area between the allowed development inland of the setback line and the western and northern property boundaries shall be landscaped with native and noninvasive plant species consistent with the mix of native species in the project vicinity selected for their ability at maturity to help reduce the perceived massing of the approved project in public views. Such plants shall be drought-tolerant; genetically appropriate for the location (avoiding cultivars), soil, hydrology, and atmospheric conditions; sourced from locally-collected seed (e.g., coastal San Mateo County); and generally be dune and scrub-appropriate species (e.g. *Artemisia californica*, *Baccharis pilularis*, *Ericameria ericoides*, *Erigeron glaucus*, *Eriogonum latifolium*, *Eriophyllum staechadifolium*, *Fragaria chiloensis*, *Lupinus arboreus*, *Dudleya caespitosa*, *Dudleya farinosa*, *Ceanothus thyrsiflorus* v. *griseus*, *Castilleja latifolia*, *Lathyrus littoralis*, *Achillea millefolium*, and *Plantago maritima*, etc.). Outside irrigation shall be limited to the initial establishment

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period, using only drip or microspray systems, and fertilizers shall be prohibited. All such plants shall be kept in good growing condition and shall be replaced as necessary to maintain the approved vegetation over the life of the project, including to maintain some visual softening of the approved development in public views. Regular monitoring and provisions for remedial action (such as replanting as necessary) shall be identified to ensure landscaping success.

All requirements above and all requirements of the approved Revised Project Plans shall be enforceable components of this CDP. The Permittee shall undertake development in accordance with this condition and the approved Revised Project Plans. Minor adjustments to the above requirements, as well as to the Executive Director-approved Revised Project Plans, which do not require a CDP amendment or new CDP (as determined by the Executive Director) may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

2. **Construction Plan.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit two copies of a Construction Plan to the Executive Director for review and written approval. The Construction Plan shall, at a minimum, include and provide for the following:
 - a. **Construction Areas.** The Construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the extent feasible, in order to have the least impact on public access and coastal resources, including by using inland areas for staging and storing construction equipment and materials as feasible. Construction, including but not limited to construction activities and materials and equipment storage, is prohibited outside of the defined construction, staging, and storage areas. Special attention shall be given to siting and designing construction areas in order to minimize impacts on the ambiance and aesthetic values of the Beach Boulevard Promenade, including but not limited to public views across the site.
 - b. **Construction Methods.** The Construction Plan shall specify the construction methods to be used, including all methods to be used to keep the construction areas separate from public recreational use areas as much as possible (including using unobtrusive temporary fencing or equivalent measures to delineate construction areas), and including verification that equipment operation and equipment and material storage will not, to the maximum extent feasible, significantly degrade public views during construction. The Plan shall limit construction activities to avoid coastal resource impacts as much as possible including lighting of work areas.
 - c. **Construction Timing.** Construction is prohibited during weekends; from the Saturday of Memorial Day through Labor Day inclusive; and during non-daytime hours (i.e., from one-hour after sunset to one-hour before sunrise), unless due to

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extenuating circumstances the Executive Director authorizes such work. Lighting of the adjacent beach or intertidal area is prohibited.

- d. **Construction BMPs.** The Construction Plan shall identify the type and location of all erosion control/water quality best management practices (BMPs) that will be implemented during construction to protect coastal water quality, including at a minimum all of the following:
 1. **Runoff Protection.** Silt fences, straw wattles, or equivalent apparatus shall be installed at the perimeter of the construction areas to prevent construction-related runoff and sediment from discharging from the construction areas, or entering into storm drains or otherwise offsite or towards the beach and ocean. Special attention shall be given to appropriate filtering and treating of all runoff, and all drainage points, including storm drains, shall be equipped with appropriate construction-related containment, filtration, and treatment equipment.
 2. **Equipment BMPs.** Equipment washing, refueling, and servicing shall take place at an appropriate off-site and inland location to help prevent leaks and spills of hazardous materials at the project site, at least 50 feet inland from the bluff edge and preferably on an existing hard surface area (e.g., a road) or an area where collection of materials is facilitated. All construction equipment shall also be inspected and maintained at a similarly sited inland location to prevent leaks and spills of hazardous materials at the project site.
 3. **Good Housekeeping BMPs.** The construction site shall maintain good construction housekeeping controls and procedures at all times (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain, including covering exposed piles of soil and wastes; dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the site; etc.).
 4. **Erosion and Sediment Controls.** All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day.
- e. **Construction Site Documents.** The Construction Plan shall provide that copies of the signed CDP and the approved Construction Plan be maintained in a conspicuous location at the construction job site at all times and that such copies are available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the CDP and the approved Construction Plan, as well as the public review requirements applicable to them, prior to commencement of construction.
- f. **Construction Coordinator.** The Construction Plan shall provide that a construction coordinator be designated to be contacted during construction

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should questions arise regarding the construction (in case of both regular inquiries and emergencies), and that the construction coordinator's contact information (i.e., address, phone numbers, email, etc.), including, at a minimum, an email address and a telephone number that will be made available 24 hours a day for the duration of construction, is conspicuously posted at the job site where such contact information is readily visible from public viewing areas while still protecting public views as much as possible, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name and contact information (i.e., address, email, phone number, etc.) and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry. All complaints and all actions taken in response shall be summarized and provided to the Executive Director on at least a weekly basis.

- g. Restoration.** All public recreational use areas and all public access points impacted by construction activities shall be restored to their pre-construction condition or better within 72 hours of completion of construction.
- h. Construction Specifications.** The construction specifications and materials shall include appropriate control provisions that require remediation for any work done inconsistent with the terms and conditions of this CDP.
- i. Notification.** The Permittee shall notify planning staff of the Coastal Commission's North Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

All requirements above and all requirements of the approved Construction Plan shall be enforceable components of this CDP. The Permittee shall undertake development in accordance with this condition and the approved Construction Plan. Minor adjustments to the above construction requirements as well as to the Executive Director-approved Plan, which do not require a CDP amendment or new CDP (as determined by the Executive Director) may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

- 3. Tsunami Preparedness Plan.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit two copies of a plan for mitigating the hazards associated with tsunami for the review and written approval of the Executive Director. The Tsunami Preparedness Plan shall demonstrate that: (a) the existence of a threat of a tsunami from both distant and local sources shall be adequately communicated to residents of the property; (b) information shall be provided to owners of the units regarding such threats (and samples of same provided); and (c) signs that do not significantly impact public views shall be installed identifying tsunami escape routes. All requirements above and all requirements of the approved Tsunami Preparedness

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Plan shall be enforceable components of this CDP. The Permittee shall undertake development in accordance with this condition and the approved Tsunami Preparedness Plan. Minor adjustments to the above requirements as well as to the Executive Director-approved Plan, which do not require a CDP amendment or new CDP (as determined by the Executive Director) may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

4. **Coastal Hazards.** By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns, that:
 - a. **Coastal Hazards.** This site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, wave overtopping, coastal flooding, and their interaction, all of which may be exacerbated by sea level rise.
 - b. **Permit Intent.** The intent of this CDP is to allow for the approved project to be constructed and used consistently with the terms and conditions of this CDP for only as long as the development remains safe for occupancy, use, and access, without additional substantive measures beyond ordinary repair or maintenance to protect the development from coastal hazards.
 - c. **No Future Shoreline Armoring.** No shoreline armoring, including but not limited to piers or retaining walls, shall be constructed to protect the development approved pursuant to this CDP, including, but not limited to, residential buildings or other development associated with this CDP, in the event that the approved development is threatened with damage or destruction from coastal hazards in the future. Any rights to construct such armoring that may exist under Coastal Act Section 30235 or under any other applicable law are waived, and no portion of the approved development may be considered an “existing” structure for purposes of Section 30235.
 - d. **Future Removal/Relocation.** The Permittee shall remove or relocate, in part or in whole, the development authorized by this CDP, including, but not limited to, the residential buildings and other development authorized under this CDP, when any 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 a shoreline protective device; or in the event that coastal hazards eliminate access for emergency vehicles, residents, and/or guests to the site due to the degradation and eventual failure of Beach Boulevard as a viable roadway. The City of Pacifica shall not be required to maintain access and/or utility infrastructure to serve the approved development in such circumstances. Development associated with removal or relocation of the residential buildings or other development authorized by this CDP shall require Executive Director approval of a plan to accommodate same

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prior to any such activities. In the event that portions of the development fall into the ocean or the beach, or to the ground, before they are removed or relocated, the Permittee shall remove all recoverable debris associated with the development from such areas, and lawfully dispose of the material in an approved disposal site, all subject to Executive Director approval.

- e. **Assume Risks.** The Permittee: assumes the risks to the Permittee and the properties that are the subject of this CDP of injury and damage from such hazards in connection with this permitted development; unconditionally waives any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; indemnifies and holds harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the CDP 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; and accepts full responsibility for any adverse effects to property caused by the permitted project.
5. **Real Estate Disclosure.** Disclosure documents related to any future marketing and/or sale of the condominiums, including but not limited to marketing materials, sales contracts and similar documents, shall notify potential buyers of the terms and conditions of this CDP, including explicitly the coastal hazard requirements of **Special Condition 4**. A copy of this CDP shall be provided in all real estate disclosures.
6. **Future Permitting.** This permit is only for the development described in coastal development permit (CDP) A-2-PAC-19-0160 Pursuant to Title 14 California Code of Regulations (CCR) Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) Section 30610(b) shall not apply to the development governed by the CDP A-2-PAC-19-0160. Accordingly, any future improvements to the development authorized by this permit shall require an amendment to CDP A-2-PAC-19-0160 from the Commission or shall require an additional CDP from the Commission. In addition thereto, an amendment to CDP A-2-PAC-19-0160 from the Commission or an additional CDP from the Commission shall be required for any repair or maintenance identified as requiring a permit in PRC Section 30610(d) and Title 14 CCR Sections 13252(a)-(b).
7. **Liability for Costs and Attorneys' Fees.** The Permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (1) charged by the Office of the Attorney General; and/or (2) required by a court) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Coastal Commission, its officers, employees, agents, successors and/or assigns challenging the approval or issuance of this CDP, the interpretation and/or enforcement of CDP terms and conditions, or any other matter related to this CDP. The Permittee shall reimburse the Coastal Commission within 60 days of being informed by the Executive Director of the amount of such

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costs/fees. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, its officers, employees, agents, successors and/or assigns.

- 8. Deed Restriction.** PRIOR TO ISSUANCE OF THE CDP, the Permittee 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 CDP a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this CDP, 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; (2) imposing the terms and conditions of this CDP as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of all of the 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

The Commission finds and declares as follows:

A. PROJECT LOCATION AND BACKGROUND

Site Location and Context

The proposed project is located at 1567 Beach Boulevard, north of Paloma Avenue and the Pacifica Municipal Pier in the City of Pacifica in San Mateo County. The undeveloped property is a roughly half-acre (19,476 square-foot) single legal lot that is located inland of the northern end of Beach Boulevard, adjacent to and inland of Beach Boulevard, its public promenade and seawall, the beach, and the Pacific Ocean (**Exhibit 1**). Beach Boulevard ends at the frontage of the site, and the northern portion of the property lies adjacent to a change in shoreline orientation between the area inland of Beach Boulevard and a separate area of residential development (i.e., the Shoreview subdivision). The site is zoned by the LCP as Multi-Family Residential/Coastal Zone Combining District (R-3/CZ), which allows multi-family residential buildings with a minimum lot area of 2,075 square feet per dwelling unit (or a total of up to 9 dwelling units maximum on this site). Per the LCP Land Use Plan (LUP), the site is also designated high density residential, which would allow for the development of up to 16-21 dwelling units per acre (subject to reductions due to site-specific constraints), which equates to a maximum of 7-9 units on the subject parcel as a whole unless constraints dictate a lower number.

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Existing development in the area consists of single-family residential structures to the north; single-family, duplex, triplex, and four-plex residential structures to the south; and a three-story apartment complex to the east. The project site is in the West Sharp Park area of the City, and within a half-mile of the Pacifica Municipal Pier, Sharp Park Beach, and Pacifica Beach Park. West Sharp Park is described in the LCP as predominantly low- and moderate-income, unique in character due to the social mix of the neighborhood, and important for visitor's beach access, including in terms of on-street parking given the area lacks large public parking lots. Based on photographic documentation (from the California Coastal Records Project), the project site was previously developed, then redeveloped over time, and then ultimately all remaining development was demolished. The site is relatively flat and is currently partially covered with ice plant and small shrubs.

See site location map in **Exhibit 1**, and site area photos in **Exhibit 3**.

Prior Development Approvals

In 2007 the City conditionally approved a CDP to construct a nine-unit, three-story residential condominium complex with a subterranean garage. That project also included raising Beach Boulevard by 2 feet and constructing a 2-foot high retaining wall along the raised portion of Beach Boulevard to protect the proposed below-grade garage from coastal flooding. That City decision was appealed to the Coastal Commission, and the Commission found a substantial issue based on LCP coastal hazard inconsistencies, including raising the street and essentially building a new seawall (i.e., the retaining wall). Subsequently, the Commission conditionally approved a revised project in 2008 that eliminated the retaining wall and the Beach Boulevard elevation increase (CDP A-2-PAC-07-022, Pacific Beach LLC/Weng), and that also required redesign to eliminate anything considered armoring (including flood proofing), assumption of risk by the Applicant, and a waiver of any armoring rights, among other requirements (e.g., recordation of all CDP terms and conditions in a deed restriction, signage to highlight tsunami exit routes, and on-site drainage). Since that time, eight CDP extension requests were granted by the Coastal Commission, and five City discretionary permit (including Site Development Permits, Use Permits, and a Tentative Subdivision Map) extension requests were granted by the City. Ultimately, the City discretionary permits expired in October of 2016, and the City denied the applicant's final extension request in December 2016. Similarly, the Commission's CDP expired in March of 2017. Thus, none of these prior Commission CDP and/or City discretionary permits enjoy any status any longer. And since that time, the previous owner sold the property to the current Applicant.

Project Area Armoring

The City-owned seawall fronting and defining the seaward edge of Beach Boulevard between Santa Rosa Avenue and Bella Vista Avenue was originally constructed in 1984 to protect Beach Boulevard and its public promenade on its seaward edge under a City of Pacifica CDP (CDP-187-00). In response to subsequent storm damage and necessary repair and maintenance, the Commission also authorized an Emergency CDP (ECDP) and a CDP for repairs and rock toe protection at a few discrete locations

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in the early 2000s.³ However, it appears that there has been significantly more armoring work done on the Beach Boulevard armoring structure than that, and the available evidence to date appears to suggest that such work has not been recognized by CDPs. In any case, the City indicates that it is its intent to submit a CDP application to the Commission for significant armoring augmentation and update in the near future, and these issues can be resolved through that application.

In addition, to the north of Beach Boulevard and its armoring, and past the change in shoreline orientation at the northern edge of the street (and the northwest corner of the subject property), the Commission authorized various ECDPs and CDPs for riprap fronting residential and other development in the Shoreview subdivision.⁴ Ultimately, it appears that armoring authorization in this area has expired. In addition, it is possible that at least some of the residences may have been redeveloped.

Again, see location map in **Exhibit 1**, and site area photos in **Exhibit 3**.

B. PROJECT DESCRIPTION

As proposed, the City-approved project would allow for the construction of two buildings containing a total of seven “town home” style condominium units on the site. On the seaward side of the property (fronting Beach Boulevard), the project includes one four-unit, two-story and 24.5-foot tall building consisting of 6,779 square feet of living area and 1,652 square feet of garage area. The ground floor of this building includes living area (in 3 out of the 4 units) and a master bedroom (in 1 out of the 4 units) on the western side of the building closest to the ocean, with garage area on the eastern side of the building. The second building on the eastern end of the property would include one three-unit, three-story and approximately 35-foot tall building consisting of 7,249 square feet of living area and 1,229 square feet of garage area. The ground floor of this building would include garage area on the western side of the building and bedrooms on the eastern side. Proposed units within these buildings include a range of two-, three-, four-, and five-bedroom units.⁵ Each of the seven units would be allocated 2 dedicated

³ Following damage from winter storms and high waves that overtopped the armoring, 60 cubic yards of concrete and 150 tons of rock were installed on a temporary emergency basis in January 2001 to repair about 56 linear feet of the armoring (Commission ECDP 2-01-002-G). Subsequently the Commission recognized that emergency work and also authorized replenishment of rock washed out by the waves and an additional 10,000 tons of 7-10-ton rock on the top of the revetment (Commission CDP 2-01-026).

⁴ In November of 1983 the Commission issued CDP 3-83-172-A1 for the installation of 8,500 tons of riprap along the Shoreview subdivision shoreline for eight of the eleven property owners along the blufftop. In 2003, the Commission authorized CDP 2-02-027 for repair and maintenance of a portion of the Shoreview revetment (for 154-220 Shoreview) and after-the-fact approval of unpermitted riprap at 196 Shoreview Avenue. In addition, 2,000 tons of rock rip rap was authorized by the Commission on an emergency basis in 1999 to fill in gaps in the Shoreview revetment and protect the sewer line, storm water pipe and outfall, and residences located at 236 and 244 Shoreview Avenue (ECDP 1-98-018-G), and this was ultimately authorized by CDP 2-01-026-A1. By the time that CDP 2-01-026-A1 was authorized, the City had relocated the sewer line between 236 and 244 Shoreview Avenue that the revetment was initially partially intended to protect, but the shoreline protection continued to provide protection for the City storm water outfall as well as the property at 236 Shoreview Avenue.

⁵ The project proposes one 2-bedroom unit, three 3-bedroom units, two 4-bedroom units, and one 5-bedroom unit.

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parking spaces, and the units altogether share 1 guest parking space, for a total of 15 proposed off-street parking spaces.

Access to the site is proposed via turning right off of Beach Boulevard into a driveway running along the northern border of the property, which would lead to the garages and the guest parking space. Given that the portion of Beach Boulevard between Paloma Avenue and its northern end is infrequently used for vehicular traffic, the City also required signage to indicate this portion of the road leads to a private driveway and otherwise the road ends. An existing City sewer line runs north to south parallel to the bluff, below this stretch of Beach Boulevard and then perpendicular to the bluff beneath the proposed northern access driveway on this parcel. In addition, a storm drain pipe runs adjacent to the northern property line, with the outfall terminating above the rip-rap at the northwest corner of the property (see **Exhibit 2** for sewer and storm pipe configurations).

See **Exhibit 4** for the City's approval and proposed project plans.

C. CITY OF PACIFICA APPROVAL

As part of the City and the Coastal Commission's ongoing local development review coordination process, Coastal Commission staff sent comments to the City regarding the proposed project and expressing concerns regarding the need to appropriately plan for and address coastal hazard issues that affect this site, including because the LCP requires appropriate setbacks without reliance on existing or proposed shoreline armoring (see March 13, 2018 and on May 6, 2019 letters in **Exhibit 9**). Despite this advice, on May 6, 2019, the City Planning Commission approved City CDP-395-18 for the proposed development, an associated vesting tentative subdivision map for the subdivision of airspace into condominiums, and a variance for a reduced rear setback. Notably, that approval did not include a coastal hazard setback and relied on armoring to ensure stability of the approved development.

On May 16, 2019, the Planning Commission's approval was appealed to the City Council by Cheryl Henley, citing concerns regarding the safety of future residents, Coastal Act compliance, coastal hazards (including in relation to the condition of the Beach Boulevard seawall and wave overtopping), and neighborhood compatibility as well as concerns regarding CEQA, privacy and views, insufficient landscaping and open space, and the public process. On June 20, 2019, Coastal Commission staff sent additional correspondence to the City Council to help in its deliberations, reiterating similar comments that had been raised in prior comment letters (again, see **Exhibit 9**). Ultimately, on June 24, 2019, the City Council upheld the Planning Commission's decision, denied the appeal, and approved CDP-395-18 for the proposed project. Again, the City's approval did not include a coastal hazard setback and relied on armoring to ensure stability of the approved development.

Notice of the City Council's final action on the City CDP was received in the Coastal Commission's North Central Coast District Office on July 15, 2019 (**Exhibit 4**). The Coastal Commission's ten-working day appeal period for this action began on July 16, 2019 and concluded at 5 p.m. on July 29, 2019. Two valid appeals were received during

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that time, one from GRG/Pacific Ventures, Ltd., and a second from Nicholas Langhoff (see appeal documents in **Exhibit 5**).

D. APPEAL PROCEDURES

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP. In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. This project is appealable because it involves development that is located between the sea and the first public road paralleling the sea, within 300 feet of the inland extent of the beach, and within 300 feet of the top of the seaward face of a coastal bluff.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that the appeal contentions do not show that the City's action raises substantial LCP conformity issues. In other words, the Coastal Act requires the Commission to presume that a substantial issue exists, unless the Commission decides to take public testimony and vote on the question of substantial issue. Since staff is recommending substantial issue on the subject project, unless three or more Commissioners object to that recommendation, it is presumed that the appeal raises a substantial issue and the Commission may proceed to its de novo review at the same or subsequent meeting.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will be allowed to testify to address whether the appeal raises a substantial issue with some restrictions. The only persons qualified to testify before the Commission on the substantial issue question are the applicant, appellants, persons who previously made their views known to the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. It takes a majority of Commissioners present to find that no substantial issue is raised.

Unless it is determined that there is no substantial issue, the Commission will proceed to the de novo portion of the appeal hearing and review the merits of the proposed project. Any person may testify during the de novo CDP determination stage of an appeal. Under Section 30604(b), if the Commission conducts a de novo hearing and ultimately approves a CDP for a project, the Commission must find that the proposed development is in conformity with the certified LCP. In addition, if a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30604(c) also requires an

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additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. This project is located between the first public road and the sea, and therefore a finding of consistency with Coastal Act public access and recreation policies would be required if the project were to be approved by the Commission.

E. SUMMARY OF APPEAL CONTENTIONS

The Appellants contend that the City-approved project raises LCP conformance issues with respect to coastal hazards and shoreline armoring; coastal resource protection (including natural shoreline processes, public access to and along the sea, and public views); neighborhood and community character; and public access parking. Specifically, the Appellants contend the approved development is inconsistent with the policies of the certified LCP because it: (1) was approved based on inadequate hazard analysis and risk assessment of the project site, (2) does not minimize risks to life and property, in particular with respect to site access, (3) relies on a City-owned seawall over which the Applicant has no control over and that has a shorter expected remaining life than that of the proposed development, (4) may require significant improvements to the existing seawall or additional shoreline armoring to protect the safety of the structures and residents, and therefore may have a significant adverse effect on coastal resources, (5) is inconsistent with the character of the existing neighborhood, and (6) does not bolster public access parking in the neighborhood. In addition to these main issues, the Appellants make a contention regarding the City's CEQA exemption.⁶ See **Exhibit 5** for the complete appeal documents.

F. SUBSTANTIAL ISSUE DETERMINATION

Substantial Issue Background

The Coastal Act requires that the Commission hear an appeal unless no substantial issue exists with respect to the grounds on which the appeal was filed under Section 30603. In doing so, Section 13115(c) of the Commission regulations provides that the Commission may consider the following five factors when determining if a local action raises a significant issue: (1) the degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act; (2) the extent and scope of the development as approved or denied by the local government; (3) the significance of the coastal resources affected by the decision; (4) the precedential value of the local government's decision for future interpretation of its LCP; and (5) whether the appeal raises only local issues, rather than those of regional or statewide significance. The Commission may, but need not, assign a particular weight to any particular factor. Even where the Commission chooses not to hear an appeal,

⁶ This appeal contention includes claims that the City improperly concluded that the City is exempt from CEQA. However, contentions regarding the City's compliance with CEQA are not valid appeal contentions because appeal contentions, per the Coastal Act, are limited to questions of LCP consistency and Coastal Act access and recreation consistency.

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appellants nevertheless may obtain judicial review of the local government's CDP decision by filing a petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

In this case, for the reasons discussed further below, the Commission finds that the City's approval of the project raises a substantial LCP conformance issue.

Substantial Issue Analysis

Coastal Hazards

The Appellants contend that the City's approval of the proposed development did not adequately analyze the coastal hazards associated with this project. Specifically, the Appellants raise concerns regarding the City's lack of adequate analysis and risk assessment of wave overtopping, wave run-up, and flooding, and how these coastal hazards will be exacerbated by future sea level rise. Further, the Appellants argue that the Applicant failed to evaluate the potential risk of wave run-up on the northwest corner of the project site, which is less than 50 feet away from the approved development, and is the only area unprotected by shoreline armoring within this stretch of Pacifica.

As shown in **Exhibit 1**, the northwest corner of the project site is armored with riprap that fronts the service path from the northern end of Beach Boulevard down to the beach, used for City armoring maintenance. The rock in this area is periodically removed and replaced when access to the ramp is needed. Immediately to the north of the service path on the southern end of the Shoreview subdivision is a riprap revetment that was not analyzed in the Applicant's geotechnical reports. In addition, the Appellants contend that the Applicant's geotechnical engineer underestimates the risk associated with wave overtopping and run-up, based on: 1) conflicting claims made by the engineer regarding the accuracy of models used to estimate potential risk, 2) the experiences of residents who have first-hand accounts of frequent and severe overtopping events, and 3) the multiple, previous failures of the Beach Boulevard seawall. The Appellants highlight that while the geotechnical engineer for the project references a report prepared for 2212 Beach Boulevard, south of the project site, the two sites are not comparable given there is no beach fronting the project site at 1567 Beach Boulevard, there is a difference in the type and configuration of shoreline armoring, no beach nourishment is proposed at this project site, and wave overtopping characteristics are different from one site to the other. In addition, the Appellants contend that the development does not minimize risks to life and property, in particular citing that the project proposes a dangerous, singular site access given the wave overtopping and high velocity wave run-up that occurs at this site and may endanger the proposed access. The Appellants note that the City's draft Adaptation Plan shows the project site to be an area at severe risk of sea level rise.

The LCP incorporates the relevant requirements of several Coastal Act sections, including Section 30253 that requires new development to minimize risks to life and property in areas of high geologic hazard (LUP Policy 26a). The LCP section on this Pacifica neighborhood (Sharp Park School – Ocean Park Manor subdivision south to the north side of Montecito) indicates that bluff erosion is exacerbated along Beach Boulevard in this area, which itself is increasingly subject to damage, and just north of

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the project site, the LUP reports high erosion rates (LUP pages C-34 and 35). A geotechnical survey is required for any proposed development located within fifty feet of a coastal bluff, and per the LCP, any such development must be set back an adequate distance to accommodate a 100-year storm event, whether caused by seismic, geotechnical, or storm conditions, and to ensure stability for a the design life of the project, which the LCP defines to be generally a 100-year period,⁷ and prohibits development that would require a seawall to ensure stability during its lifetime. If the required setback would render a site undevelopable, the LCP provides that the setback may be reduced by the minimum extent necessary to allow economically viable development, provided a qualified geologist determines that there would be no threat to public health and safety (see LUP page C-37; LCP Implementation (IP) Section 9-4.4404 (b); and IP Section 9-4.4404(d)(5) in the CDP Determination section of this report for the full text of referenced LCP policies).

In the City's Staff Report analyzing the contentions of the appeal to the City Council, the City asserts that the Appellant's concerns and claims about wave overtopping, erosion hazards, and public health and safety impacts were merely speculative and that the Appellant did not present substantial evidence to substantiate claims that these coastal hazards are more significant than demonstrated in the Applicant's submittal. The City indicates that the Planning Commission's decision was made based on information presented by David Skelly of GeoSoils, Inc. (GSI) in a report dated November 27, 2017, and, as supported by this report. the City expresses no concern regarding wave overtopping and erosion as it pertains to this site and project. However, no additional hazard analysis reports were required of the Applicant by the City. In fact, the City's approval of the proposed development was despite a substantial amount of missing critical information. The City did not require analyses of the potential for increased erosion and flooding hazards based on a range of expected sea level rise scenarios, evaluation of wave overtopping accounting for potential increased water levels from the combination of wave action and storm surge with sea level rise, and did not provide clarity on whether the seismic slope stability setbacks incorporated additional setbacks for expected bluff retreat with sea level rise over the life of the development.

Further, the materials provided by the Applicant to the City did not include an analysis of the vulnerabilities stemming from the unprotected northwest corner of the project site, where the sole access to the site is proposed. As stated above, this particular site is mapped as an area of severe hazard risk in the City's draft Adaptation Plan. As such, the City's approval lacks adequate evidence to demonstrate that the proposed project and proposed access via Beach Boulevard has been adequately sited and designed to be safe from hazards without the need for shoreline protection (see also 'Shoreline Armoring' section below).

The Appellants additionally contend that the City's approval relies on a geotechnical analysis in which the geotechnical engineer makes claims that conflict with his prior reports for the City regarding the accuracy of models used to estimate risk. The

⁷ Where the policy requires such stability for the expected life of the structure, which the LCP states is the time frame in which the designer expects the development to safely exist, generally 100 years.

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Appellants cite changing estimates of wave overtopping between 1) a report from January 14, 2002 for CDP 2-01-026 for authorization of emergency repair, replenishment of rock, and reconstruction of the top of the Beach Boulevard armoring structure near the project site, 2) a report referenced in a October 16, 2006 City Staff Report for the nine-unit project at the project site, and 3) a report dated November 27, 2017 for the project in question, each of which includes a different maximum overtopping elevation, height of wave-driven water over the top-of-wall, and estimates of existing seawall capacity.

Further, the hazards analysis is based on an analysis prepared in 2016 by Moffatt and Nichol (M&N) for coastal hazards at 2212 Beach Boulevard, which is near the project site, yet has key differences. The Appellants indicate that the Applicant's geotechnical consultant, GeoSoils, Inc. (GSI), takes some of the conclusions of this M&N report yet fails to incorporate key parameters of the study, which include that sea level rise must be no more than 5.5 feet by the end of the century, the seawall south of the pier must be maintained for the rest of the century, and the beach fronting the seawall along Beach Boulevard must be nourished through the century. This project does not include beach nourishment, and the GSI analysis is based on 3 feet of sea level rise instead of 5.5 feet, which even now is lower than current scientific estimates of sea level rise by 2100. Moreover, the GSI report on which the City approval was based indicates that the seawall will last forty years with only minor maintenance, although the material is not designed to resist wave energy. Due to the conflicting claims and estimates made by the geotechnical engineer and the reliance on a 2016 M&N report in which the stated parameters were not applied, the City's approval lacks adequate evidence to demonstrate that the proposed project was based on a reliable and complete geotechnical analysis.

Lastly, the Appellants contend that the City's approval ignores anecdotal hazards evidence and multiple failures of the shoreline protection that is relied on by this project for safety. Multiple personal accounts of neighborhood residents are cited, relaying information about powerful wave overtopping resulting in impacts to public safety and residences adjacent to this portion of Beach Boulevard. The Appellants refer to reports of seawall failure in January 2001 that required repair authorized through approval of ECDP 2-01-002-G and follow-up CDP 2-01-026, in February 2007 a 'Coastsider' article describing a sinkhole that opened up due to seawall failure, in March 2008 in a San Mateo County Times article, and in January, February, and March 2016 in ABC7 News reports. The City did not investigate or otherwise analyze these claims, and its record lacks sufficient evidence to the contrary to dispute them.

Therefore, the City's approval is inconsistent with the LCP's hazard policies because there is insufficient evidence to determine the project is adequately sited and designed to minimize risk and there are no required conditions or mitigations that would avoid or minimize the hazards on the site. Further, the City did not require adequate geotechnical analysis in order to assure that the development is adequately set back so as to be safe from 100-year hazards events and for stability for the design life of the development, defined as generally 100 years, as is required by the LCP requirements.

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Thus, the City's approval raises a substantial LCP conformance issue with respect to coastal hazards.

Shoreline Armoring

As noted in the 'Coastal Hazards' section above, the Appellants contend that the City has not provided adequate analysis of whether the project is sited and designed appropriately to ensure safety and stability without the need for additional shoreline armoring in the future to protect the project's proposed structures and its residents. In addition, the Appellants indicate that the development, which would be the largest development built along the northern portion of Beach Boulevard, is dependent on the Beach Boulevard shoreline armoring, and the City's approval does not acknowledge deficiencies in the shoreline armoring nor that failure of this shoreline armoring would compromise the safety of the project. Moreover, the Appellants note that the Applicant has no control over the City-owned armoring on which it relies to assure their project is safe from hazards. The Appellants also note that the estimated life of the project is 75-years, which is 35 years past the remaining City-estimated life of the seawall. As such, the Appellants contend the development will likely necessitate the construction of a new seawall or at minimum, protection of the northern end of Beach Boulevard, inconsistent with the LCP.

Pursuant to the LCP, shoreline armoring is only permitted if necessary to protect existing development or coastal-dependent uses or public beaches (IP Section 9-4.4406(c)(1)). Similarly, new development that requires or will eventually require armoring for the safety of the structures is prohibited per the LCP, unless without such seawall the property will be rendered undevelopable for any economically viable use (IP Section 9-4.4406(c)(2)). The LCP also states that development must 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 (LUP Policy 26b). Again, see the CDP Determination portion of this report for the full text of the referenced policies.

In response to these armoring appeal contentions, the City Council ultimately determined that the policies do not apply in this circumstance because 1) the existing shoreline armoring is not a mitigation measure proposed specifically for the purpose of the project in question, but rather is an existing condition of the surrounding environment, and as such the project would not require the construction of a shoreline armoring, and 2) the project site does not meet the definition of a coastal bluff, so the policies pertaining to development of blufftop sites do not apply. City staff notes that the Applicant submitted an updated analysis of the seawall, prepared by GSI, and that the City conducted a peer review of this analysis through the City's Consultant, Cotton Shires and Associates (CSA) in a report dated March 12, 2019, and another prepared by Peter Yu of Structus Inc. dated May 30, 2019, who concluded the wall was in "very stable and good condition." As a result, the City concludes there is sufficient evidence the City's Beach Boulevard armoring will remain for at least 40 years and indicates that "the most reasonable conclusion is that the City will replace the wall prior to the end of its useful life."

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However, the fact that shoreline armoring currently exists along the stretch of Beach Boulevard fronting this site does not exempt the project from the shoreline armoring provisions of the LCP. The LCP does not make the distinction between relying on existing shoreline armoring versus proposing shoreline armoring when it prohibits shoreline armoring for new development. The only exception to the prohibition of shoreline armoring in the LCP applies to circumstances when a site would be rendered undevelopable for any economically viable use, and the City failed to acknowledge or analyze that question.

Based on the documents submitted for the City CDP, the project was approved despite relying on the shoreline armoring in-place along Beach Boulevard, without evidence that without such shoreline protection the site would be rendered undevelopable for any economically viable use, as stated in the LCP policies. Technical reports submitted by the Applicant included test pits to evaluate the life of the City-owned shoreline protection, but only visual inspections were performed, and as such the peer review of this analysis performed by the City states that the actual structural characteristics couldn't be assessed as no calculations were performed. Nonetheless, the City's CSA report estimates the seawall's remaining life to be 40 years, while the Applicant's GSI report estimates it at 75 years, creating uncertainty that the project will be safe from hazards for the economic life of the project the Applicant proposes.

Further, the conclusions on which the application was approved presume the shoreline armoring will remain for the life of the development or that the City will rebuild the armoring in the future within its existing configuration, despite the shorter anticipated remaining life of the armoring in comparison to the projected life of the development. Finally, the City currently estimates building a new seawall along Beach Boulevard would cost approximately \$25 million, and there is no clear current source of such funding to rebuild the armoring, or even to repair and maintain it over its remaining life, much less the Applicant's proposed 75 years. As such, the City's approval raises a substantial LCP conformance issue with respect to allowing shoreline armoring to protect new development.

Sand Supply

The Appellants further contend that the project may require significant improvements to the existing Beach Boulevard armoring in order to protect the development for its proposed economic life. In addition, the Appellants contend that the City did not assess the future need for additional shoreline armoring at the northern terminus of Beach Boulevard where there currently is no armoring, and directly to the north of the project site where there is visible damage to the concrete facing that protects the storm drain outlet. As a result, the Appellants contend that potential improvements to or augmentation of the Beach Boulevard armoring or installation of new shoreline armoring at the northern terminus of Beach Boulevard and/or fronting the property at 244 Shoreview Avenue as is reasonably foreseeable may have a significant adverse effect on coastal resources. Specifically, that these improvements could adversely affect and alter shoreline processes and impact natural sand supply to the beach.

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The City's LCP stipulates that new development shall be located so as to not have significant adverse effects, either individually or cumulatively, on coastal resources (LUP Policy 23). The City's analysis does not include a discussion of how potential improvements to shoreline armoring that would likely be required as a result of the proposed project may impact coastal sand supply resources. However, it is well known that armoring significantly alters natural bluffs, deprives beaches of sand, and leads to a loss of beach fronting the armoring over time from passive erosion processes. As discussed above, this project relies on the City's Beach Boulevard armoring for the safety of the structures and its residents over the development's proposed economic life. However, not only is such armoring unlikely to sustain the project for the Applicant's projected project life, but the LCP doesn't allow for the project to countenance armoring to ensure LCP-required safety and site stability over time. On the contrary, the LCP prohibits armoring in such circumstances. Further, it appears reasonable to presume that since the project relies on such armoring, and there are gaps and problems with such armoring currently, that the project will precipitate augmented and additional armoring with attendant coastal resource impacts, none of which was described nor analyzed in the City's approval. Thus, the City's approval raises substantial LCP conformance issues in this respect as well.

Neighborhood and Community Character

The Appellants contend the City-approved project is incompatible with the design, scale and character of the West Sharp Park neighborhood, which is categorized in the LCP as an established low- and moderate-income residential neighborhood. Pursuant to the LCP, in-fill residential development on the vacant lots fronting on the east side of Beach Boulevard should be comprised of residential uses similar to existing adjacent uses, compatible in design and scale with surrounding development, and should protect the economic mix of housing opportunities (see LUP pages C-35 and C-37). Further, the LCP prioritizes old bungalow style character, with small one-story structures, wood siding, small porches, window trim, planter boxes, fencing and landscaping, and indicates that structures should be limited to two stories in this neighborhood (see LUP page C-37). More generally, the LCP provides that modern buildings should only be incorporated in a way that preserves the existing character of neighborhoods (see LUP pages C-105 and C-106).

The City-approved project includes one two-story and one three-story building of modern-style condominium units, with the three-story building at the easternmost portion of the site. Between the project site and Paloma Avenue (the street to the south and closest to the site that ends at Beach Boulevard), there are two residential buildings. Immediately adjacent to the proposed development is a two-story structure, while on the corner of Paloma Avenue and Beach Boulevard there is a larger, split-level residential building consisting of two-stories on the portion immediately fronting Beach Boulevard and three-stories at the rear of the building, similar to the proposed development.

The design of the City-approved project is not bungalow style and of the above-listed design detail preferences outlined in the LCP, only incorporates planter boxes and porches. In contrast, the two adjacent structures on Beach Boulevard incorporate front-

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yard landscaping and porches, but similarly do not incorporate all of the listed design details and are not bungalow-style. Frankly, the LCP 'bungalow style' vision for this area has not been achieved overall inasmuch as the built environment does not generally exhibit that style, and one is hard pressed to describe the area as mostly one style or another. Rather, the area has clearly developed more haphazardly design-wise and is generally an eclectic mix of fairly boxy one-, two- and three-story structures, especially along Beach Boulevard.

In that context, and although the east elevation of the City-approved three-story building and the north and south elevations of the approved two-story building lack articulation and include a proposed plaster material, these elements are mirrored in the adjacent structures in the immediate vicinity. The most significant portion of the project in the public view, namely the frontage on Beach Boulevard itself, includes some design variation that helps provide some visual interest (e.g., planter boxes, patio areas, and minor differentiation of exterior building materials), but at the same time is still fairly boxy and will be perceived by viewers as a fairly large mass right on top of Beach Boulevard. As such, although it does not match the bungalow style preferred by the LCP, and although it will introduce a large mass into the public viewshed at the end of Beach Boulevard, the City-approved structures would not be incompatible with the character of surrounding development.

In terms of the LCP requirement to maintain the economic mix of housing opportunities in this area, the project is not proposed as an affordable option, but rather would be market rate condos. It is likely that it will be more costly for potential future residents to purchase and live in the proposed units as compared to surrounding residential units. However, this is in-part attributed to the fact that the units would be new construction, priced according to today's housing market. These units would also be right on the shoreline, some with unimpeded ocean views, which tends to command higher prices despite the dangers from coastal hazards discussed earlier.⁸ Thus, while it is anticipated to be on the highest end of the cost spectrum for the area, the LCP requirement is not to provide affordable housing, but rather to maintain a range of price points. In that context, and although it would expand the price point 'mix', as any development on the higher end of the price spectrum would, the City-approved project can be found compatible in terms of costs.

In short, with regard to circumstances related to surrounding development community character and the proposed cost of new development in the existing housing market, any potential project inconsistencies pertaining to neighborhood character are not substantial.⁹

⁸ Development along the state of California has not generally 'adjusted' to this coastal hazard overlay in a way that property owners internalize the risks of developing in areas subject to coastal hazards, where true costs (e.g., for insurance, repetitive loss, etc.) might then lead to depreciation in values, and Pacifica is no different.

⁹ That is not to say that there couldn't be a different conclusion in a de novo review, but rather that there is evidence to support the City's decision in this respect.

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Public Access and Parking

The Appellants contend the project would generate additional on-street parking demand in an area that is used for beach access and is already subject to parking shortages. Specifically, the Appellants are concerned that the project does not include the development of new street parking or any new public access parking and that project parking demand may spill over onto the public streets to the detriment of general public parking supply.

The LCP requires that new development provide adequate off-street parking facilities to meet its demand, including in order to maintain, enhance, and not adversely impact public access to the coast (LUP Policy 25). In addition, the LCP specifically indicates that one of the main coastal issues in the West Sharp Park neighborhood is resident-visitor parking conflict (LUP pages C-32 and C-33). Further, the LCP provides that there is a need for public beach parking at the north end of Beach Boulevard, which should be considered along with future development in close proximity to the north end of Beach Boulevard such as the proposed project here (LUP page C-35). Again, see the CDP Determination portion of this report for the full text of referenced policies.

The City-approved project includes only two parking spaces for each of the seven units, despite the units containing up to five bedrooms, and a total of fifteen off-street parking spaces overall (one being a guest parking space for the overall development). While this may meet minimum required zoning standards, units ranging from two to five bedrooms indicate that it is very likely that residents will have more than two cars per unit, and equally likely that the development will have more than one guest visiting at any given time. In short, fifteen off-street parking spaces do not appear adequate to account for all of the development's off-street parking demand, and it would appear likely that project parking demand will spill over onto the public street to the detriment of on-street beach and visitor parking.

In addition, the City did not require public access improvements or enhanced public parking along Beach Boulevard as part of the project, despite LCP policies and goals that require that such considerations be a part of any new development in this area. This portion of Beach Boulevard (i.e., the north end of the street past Paloma Avenue) is not improved to public street standards like the rest of Beach Boulevard, rather it is accessed through a curb cut at its intersection with Paloma Avenue. That is not to say that the public street at the north end is any less of a public street, because it is public and available to the public like the rest of Beach Boulevard to the south, but it is to say that the north end of the street fronting this site presents ample opportunity to better articulate and accommodate the public and public parking (e.g., through curbs and gutters, striping, signs, etc.).

As such, the project raises substantial conformance issues with the LCP with respect to public access and parking.

Substantial Issue Conclusion

When considering a project that has been appealed to it, the Commission must first determine whether the local government's decision on the project raises a substantial

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issue of LCP conformity, such that the Commission should assert jurisdiction over the CDP application 'de novo' (i.e., completely reviewing the project for LCP consistency) for such development. At this stage, the Commission has the discretion to find that the project does or does not raise a substantial issue of LCP conformance. Section 13115(c) of the Commission regulations provides that the Commission may consider the following five factors when determining if a local action raises a significant issue: the degree of factual and legal support for the local government's decision; the extent and scope of the development as approved or denied by the City; the significance of the coastal resources affected by the decision; the precedential value of the City's decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance.

In this case, the five factors, considered together, strongly support a conclusion that the City's approval of the proposed project raises a substantial issue of LCP conformance. As currently proposed, the City's decision lacks adequate analysis of the coastal hazards associated with the project and the project site, and as such lacks adequate factual support regarding the proper siting and long-term safety and stability of the project with respect to these potential hazards in light of LCP requirements. The development relies entirely on existing shoreline armoring for its safety, although the currently estimated life of the existing shoreline armoring is significantly less than that proposed by the Applicant as the expected lifetime of the development, and even though the LCP prohibits reliance on armoring for new development with one exception that has not been established here. In addition, augmentation and/or replacement of this existing armoring would likely be required to maintain stability for this project in the short to longer term, and such armoring, if allowed, would lead to significant impacts to coastal resources, especially in terms of the public beach. In addition, it would appear that the project would lead to public access and parking impacts that could adversely affect public access to the beach and shoreline. Further, approval of a potentially hazardous development with reliance on existing and future shoreline armoring could significantly adversely affect future interpretations of the City's LCP and the intent of the Coastal Act more broadly.

In conclusion, the City-approved project raises substantial issues regarding coastal hazards and shoreline armoring, coastal resource protection, and public access. Therefore, the Commission finds that the appeal raises a substantial issue with respect to the City-approved project's conformity with the policies of the certified LCP and takes jurisdiction over the CDP application for the proposed project.

G. COASTAL DEVELOPMENT PERMIT DETERMINATION

The standard of review for this CDP determination is the City of Pacifica certified LCP and, because it is located between the first public road and the sea, the access and recreation policies of the Coastal Act. All Substantial Issue Determination findings above are incorporated herein by reference.

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Coastal Hazards

Applicable LCP Provisions

The City of Pacifica LCP establishes several requirements for new development to address coastal hazards, including minimizing risks to life and property, assuring stability and structural integrity, and requirements to maintain safety and stability over time, including in relation to 100-year storm events and over the anticipated design life of the development, defined by the LCP as generally a 100-year analytical time frame, including:

LUP Policy 26 (Coastal Act Section 30253). New development shall:

- (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.

LUP Page C-34: Sharp Park School – Ocean Park Manor Subdivision South to the North Side of Montecito ...wave erosion compounded by drainage from the inland area, human scrambling and illegal bluff-top parking, have aggravated bluff erosion along this part of the beach to the point where Beach Boulevard and the parallel pedestrian-bicycle pathway are increasingly subject to damage.

LUP Definition of Net Developable Area. The portion of a site determined by a geologist to remain usable throughout the design life of the project and determined to be adequate to withstand a 100-year hazard event.

LUP Page C-20. The “net developable area” along the bluff top can be determined by detailed geotechnical studies which would indicate the stable portions of the site and establish “hazard” setbacks to protect the structures for their design life, generally assumed to be 100 years. The appropriate land use designation for a site will be applied only to the established net developable area. In the event the net developable area for parcels in existence on the date of the adoption of these amendments is determined to be less than the minimum area per unit allowed in the designation, one residential unit per parcel shall be permitted so long as the property conforms to all geotechnical standards and is determined to be developable pursuant to geotechnical review.

LUP Definition of Design Life. The time span during which the designer expects the development to safely exist, generally 100 years.

IP Section 9-4.4404(a) Geotechnical Suitability. Intent. The provisions of this Section shall apply to all new development requiring a coastal development permit in the CZ District and shall be subject to the regulations found in Article 43, Coastal Zone Combining District. The intent of these provisions is to minimize

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risks to life, property, and the natural environment by ensuring geotechnical suitability for all development.

IP Section 9-4.4404(c)(6) Geotechnical Suitability. All geotechnical surveys shall, at a minimum, include the following information: Mitigation measures demonstrating that potential risks could be reduced to acceptable levels.

IP Section 9-4.4404(d)(3) Geotechnical Suitability: The density of new development shall be based on the net developable area, as established in the required geotechnical survey.

IP Section 9-4.4404(d)(4) Geotechnical Suitability. Where the net developable area of a legal lot existing prior to the effective date of this Article is determined to be less than the minimum area per dwelling unit allowed in the underlying basic zone, one dwelling unit per parcel shall be permitted provided it complies with all geotechnical standards set forth in this section.

IP Section 9-4.4404(d)(5) Geotechnical Suitability. Consistent with the City's Seismic Safety and Safety Element, new development shall be set back from the coastal bluffs an adequate distance to accommodate a 100-year event, whether caused by seismic, geotechnical, or storm conditions, unless such a setback renders a site undevelopable. In such case, the setback may be reduced to the minimum extent necessary to permit economically viable development of the site, provided a qualified geologist determines that there would be no threat to public safety and health.

Further, the LCP requires that new development be designed to avoid coastal resource impacts, including to prevent impacts from armoring on natural shoreline processes such as sand supply, and prohibits armoring to protect new development, including:

LUP Policy 16 (Coastal Act 30235). 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 fish kills should be phased out or upgraded where feasible.

IP Section 9-4.4406(c) Development Standards. The following standards apply to all new development along the shoreline and on coastal bluffs.

- (1) Shoreline Protection: Alteration of the shoreline, including diking, dredging, filling, and placement or erection of a shoreline protection device, shall not be permitted unless the device has been designed to eliminate or mitigate adverse impacts on local shoreline sand supply and it is necessary to protect existing development or to serve coastal-dependent uses or public beaches in

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danger from erosion or unless, without such measures, the property at issue will be rendered undevelopable for any economically viable use;

- (2) Shoreline Protection: Consistent with the City's Seismic Safety and Safety Element, new development which requires seawalls as a mitigation measure or projects which would eventually require seawalls for the safety of the structures shall be prohibited, unless without such seawall the property will be rendered undevelopable for any economically viable use.

LUP Policy 23 (Coastal Act 30250(a)). New development, except as otherwise provided in this policy, shall be located within, contiguous within, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources...

Analysis

Taken together the LCP requires new development in Pacifica to minimize risks to life and property while ensuring stability and structural integrity without contributing significantly to erosion, geologic instability, or destruction of the site or surrounding area (LUP Policy 26). IP Section 9-4.4406(c) and LUP Policies 16, 23, and 26 also provide that new development that would rely on shoreline armoring is prohibited and that adverse impacts to coastal resources such as sand supply be avoided, lessened, and mitigated for where unavoidable. Especially germane to the project at issue, policies in the LCP require that new development be set back to accommodate a 100-year event caused by seismic, geotechnical, or storm conditions for the full project life of the development (LCP Policy 9-4.4404(d)(5)). In sum, the LCP requires that new development minimize risks to life and property in areas of high coastal hazards, that it be set back adequately to accommodate a 100-year storm event and to ensure stability for the design life of the development, which per the LCP is generally a 100-year period,¹⁰ and prohibits development that would require a seawall to ensure stability during its lifetime. If the required setback would render a site undevelopable, the LCP provides that the setback may be reduced by the minimum extent necessary to allow economically viable development. Moreover, the LUP indicates that the appropriate land use designation for a site will be applied only to its established net developable area (in other words, that density and intensity of use does not emanate from the gross square footage of the site, rather it is calculated from the net developable area, including after eliminating areas unsuitable for development by virtue of coastal hazards).

As discussed by Commission staff geologist Dr. Joseph Street in the attached memo (**Exhibit 6**), the primary short-term geologic hazard to blufftop development in Pacifica is from rapid episodic bluff retreat occurring during strong winter storms. For example, during historical El Niño events, bluffs in the immediate project vicinity have experienced 30 to 80 feet of bluff edge retreat over very short timeframes (e.g., days to

¹⁰ Where the policy requires such stability for the expected life of the structure, which the LCP states is the time frame in which the designer expects the development to safely exist, generally 100 years.

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weeks). Accordingly, in order to meet LCP requirements, new development must be set back from the bluff edge a sufficient distance to account for (a) long-term future bluff edge retreat that can be expected to occur over the project life, including the potential effects of sea level rise; and (b) short-term, storm-driven episodic bluff retreat approximating an 100-year hazard event, occurring at any point during the project life, without relying on shoreline protection. If such a setback would render a site undevelopable, the LCP allows for a reduced setback designed to be the minimum reduction to allow an economically viable development, provided a qualified geologist determines that there would be no threat to public safety and health (LCP Policy 9-4.4404(d)(5)). As defined in the LCP, the design life of a development is determined by the project designer to be the timeframe during which the development is expected to safely exist, typically 100 years. In this case, the project architect has estimated that the proposed project has a shorter design life of 50-75 years, based on the impacts of storm winds, sea water spray, and salty air despite regular maintenance.

To assess the geotechnical stability of the site and the proposed project, and the adequacy of the proposed bluff edge setback, after the appeal to the Commission, the Applicant provided an analysis prepared by GeoSoils, Inc. (GSI) on October 18, 2019 that describes 1) the safety of project assuming no shoreline protection, 2) the safety of the project assuming only the rock revetment portion of the City's Beach Boulevard armoring is maintained, without the seawall, and 3) the safety of the project assuming the seawall and revetment are maintained in existing condition. In the analysis, the Applicant uses a historical retreat rate of 1.5 feet/year based on historic aerial photos spanning the period 1946-1979, prior to the construction of shoreline armoring along Beach Boulevard, and provides estimates of future bluff retreat at the site using a simple model (SCAPE equation) that relates bluff retreat to future sea level rise. In addition, the Applicant-submitted GSI report models the erosion and factor-of-safety setbacks.

The Applicant's analysis concludes that in the absence of shoreline armoring, using a 50 to 75-year design life (i.e., out to 2070 to 2095) as estimated by the designer, that the 50-year safe setback would be 105-feet and the 75-year safe setback would be 180-feet. In the event that only the rock revetment is maintained, the Applicant's analysis concludes that the shoreline would remain fixed at the revetment and that bluff edge retreat will be high immediately after the seawall removal, before stabilizing for the remainder of the project's anticipated life as overtopping of the revetment extends further away from the bluff edge. In this "revetment-only" scenario, the Applicant states that the 50-year safe setback would be 24-feet and the 75-year safe setback would be 48-feet. Lastly, for the scenario with both the wall and revetment maintained in existing condition, the Applicant's analysis concludes the development as proposed by the Applicant is sited safe from hazards for the full 75 years of its design life.

Bluff retreat of 1.5 ft/year is a valid historical erosion rate to use for the site if the analysis was to ignore more recent history. However, it is important to note that the time period in which this historical erosion rate was observed is short and is missing the last forty years or so. In the last forty years, significantly higher erosion rates have been observed for bluffs in Pacifica, including the area immediately to the north of the project

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site. For example, USGS estimates historical retreat from the 1930s to 2016 for the bluffs between this site and the 300 block of Esplanade to the north ranges from 1.8 to 3 feet/year. As such, it is possible that the erosion rate at the project site could be significantly higher than the Applicant's analysis estimates.

The Applicant-submitted GSI report uses the SCAPE equation to project bluff retreat with sea level rise, but applies assumptions that tend to underestimate risks.¹¹ The Applicant argues that this approach is appropriate because there is a beach at the site and because bluff erosion would contribute more sediment to the system. However, Dr. Street notes that only a narrow, intermittent beach would exist at this site even without shoreline armoring, and that its effectiveness in protecting the bluff from wave attack would be limited. Further, the exponent term in the equation is intended to describe how the shore profile changes with sea level rise, which is not the basis of GSI's argument. Thus, Dr. Street concludes that GSI's argument for using a lower value of m is speculative, less precautionary than using the default, more protective exponent value ($m = 0.5$), and does not account for the potential threat given the range of expected sea level increases over the life of the project.

Other features of the Applicant's bluff retreat analysis also contribute to the analysis being less precautionary than is appropriate given current sea level rise science. First, in applying the SCAPE equation, GSI uses future average sea level rise rates from 2017 NOAA projections that are lower than those recommended by the 2018 Ocean Protection Council (OPC) State Guidance. Second, GSI's bluff retreat analysis using USGS CoSMoS projection tools mischaracterizes projections of shoreline retreat (i.e., in terms of the future position of the mean high tide line) as projections of bluff retreat, and thus significantly underreports the actual bluff retreat projections of the CoSMoS model, which for the project vicinity ranges from 180 to 300 feet by 2100. Further, the Applicant's setback estimates are applied as if the shoreline is linear, but it is not at the project site and actually curves inland at the topographic depression on the northwest end of the property. Nonetheless, even with this less precautionary approach, the Applicant's analysis indicates that the proposed development would be reliant on the existing shoreline armoring for its future safety and stability.

In terms of wave overtopping threats, GSI indicates that the project site has not been flooded by any of the past seawall overtopping events identified along Beach Boulevard because the site is 2 to 3 feet higher in elevation than the surrounding area that has experienced flooding. In addition, GSI indicates it has conducted annual inspections of the armoring since 2004 and notes little change in revetment geometry, and a City-commissioned study of the portion of the seawall adjacent to the project site indicates no voids identified inland of the wall. GSI provided a runup and overtopping analysis based on 3 feet of sea level rise over a 75-year timeframe and estimates that waves will

¹¹ GSI adjusts the SCAPE equation by decreasing an exponent term (using $m = 0.33$) that determines the bluff retreat response to sea level rise. A lower m value (the original modeling study that produced the equation suggested $m = 0.5$ as a default) assumes that there will be a more heavily damped bluff retreat response to a given increase in sea level rise rate, resulting in a lower estimate of future bluff retreat for a given rate of future sea level rise.

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dissipate after approximately 40 feet. For 4.9 feet and 6.6 feet of sea level rise (as generally aligned with OPC's 2018 sea level rise scenarios) with a 100-year storm, GSI uses CoSMoS to demonstrate that flooding would only reach the edge of the property, which would be further protected by a proposed 3-foot high wall at the roadway perimeter, despite noting that overtopping frequency will increase with sea level rise. The Applicant references a broad wave overtopping analysis for the area conducted by Environmental Science Associates (ESA) for the Draft Sea Level Rise Adaptation Policies for Pacifica for 5.7 feet of sea level rise to determine that wave runup and overtopping would likely reach the seaward boundary of the site. The Applicant also determines that estimating risk based on under 7 feet of sea level rise with only the revetment, water may reach the site from the northwest corner but would not have a significant impact on the site.

The Commission's Senior Coastal Engineer, Dr. Lesley Ewing, concurs that based on the various analyses provided by GSI, and with the existing shoreline armoring in-place and maintained, the site would be relatively safe from wave runup and overtopping (**Exhibit 7**). However, the Applicant did not provide an analysis of flood risks for future conditions if the existing shoreline armoring is removed at any point during the project life. Using EurOtop and FEMA, Dr. Ewing projects that overtopping and runup without shoreline armoring is a likely threat to the proposed development as the bluff retreats landward and overtopping flows reach closer to the site and increase in depth with sea level rise, and as such would likely eventually impact the proposed development, especially vehicle access to the site.

In terms of tsunami risk, the proposed development is located in a tsunami hazard zone and within the evacuation zone identified by the City of Pacifica. Based on California Office of Emergency Services tsunami risk maps, Dr. Ewing indicates that the proposed development will be at possible risk from a major tsunami (**Exhibit 7**). GSI relies on the M&N report for a different project (at 2212 Beach Boulevard) and indicates that the proposed perimeter wall would be designed to protect the development from the anticipated hazard of a 1-foot high tsunami bore over the shoreline armoring. However, Dr. Ewing opines that a short perimeter wall would not protect for anticipated tsunami hazards given that a rare tsunami could have a bore higher than 1-foot, and if the shoreline protection is removed, the buffer between a potential tsunami bore and the proposed development will decrease. In order to assure that the development will minimize risks to life and property, **Special Conditions 3 and 5** specify that all future residents of this multi-unit development should be notified of the existence of tsunami threat, with information on evacuation orders and escape routes.

In order for the project to be consistent with LUP Policies 16 and IP Policy 9-4.4406(c), the development cannot rely on shoreline armoring in order to assure safety from hazards to the site (including bluff erosion, wave overtopping, and flooding), regardless of the fact that there is a seawall and rip-rap revetment already in place. As noted above, the Applicant's analysis of the site in the absence of shoreline armoring found that future erosion would require setbacks of at least 105 feet (over 50 years) or 180 feet (over 75 years), both of which far exceed the proposed 35 to 70-foot setback for the new development, and clearly show that the project would rely on shoreline armoring to

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maintain site stability, as is prohibited by the LCP. This general conclusion is borne out by Dr. Ewing's and Dr. Street's own bluff retreat analysis (presented in detail in **Exhibit 6**) of a scenario without shoreline protection for the full design life of the project. Using the SCAPE equation, with the Applicant's historic erosion rate of 1.5 feet/year under a conservative scenario including sea level rise (i.e., applying OPC's recommended 0.5% probability scenario with $m = 0.5$) over a 75-year period, Dr. Street found that the required setback would actually be 298 feet, or 328 feet if an additional 30-foot setback to protect against a short-term, storm-driven bluff retreat episode over the project life is added. As an alternate scenario, Dr. Street also used CoSMoS projections to estimate how much the Applicant's historical retreat rate (1.5 feet/yr) could accelerate with sea level rise through 2095 (based on using a 1.6 acceleration factor as derived from CoSMoS as an additional, independent way to estimate future erosion). Through this method, a 75-year setback for future erosion, plus the 30-foot episodic bluff retreat setback, is estimated to be 206 feet. In conclusion, when future long-term bluff retreat and short-term episodic bluff erosion is accounted for over the full design life of the project, without relying on shoreline armoring, as required by the LCP, all appropriate science and projections would suggest a setback that would extend inland of the site would be necessary, which would eliminate all development potential for the subject site.

Per LCP Section 9-4.4404(d)(5), in a case such as this where the required setback would render the site undevelopable, the setback may be reduced by the minimum amount necessary to allow economically viable development of the site, provided a qualified geologist determines that such reduced setback would not be a threat to public safety and health. Thus, the Commission must determine an appropriate reduced setback that will minimize risk from a 100-year hazard event over the life of the project in a way that can provide for economically viable development. Given this LCP setback allowance and the reality that there is a City-owned seawall and revetment currently fronting the site, it is worth considering a scenario under which the proposed development relies on the existing shoreline armoring, at least for the devices' expected life, since the armoring is present, and consider the potential fate of such devices if and when they are proposed to be reconstructed. The City currently estimates that the existing shoreline armoring, including the seawall and revetment, have 40 remaining years of functional life, and has expressed its intention to maintain them. Thus, in analyzing existing surrounding development, including residential development, City infrastructure (e.g., Beach Boulevard, sewer lines, and storm drain pipe and outfall), and existing shoreline armoring, as well as associated future unknowns, potential future risks to development at this site can be assessed in the context of a reduced setback to allow for economically viable development.

In terms of shoreline armoring north of the site, and as described earlier, the Commission authorized various ECDPs and CDPs for riprap fronting residential and other development in the Shoreview subdivision. Ultimately, however, it appears that the authorization for armoring in that area has expired. In addition, it is possible that at least some of the residences may have been redeveloped. Thus, analytically it is unclear to what extent the law may allow for armoring (or some form of armoring) in that area moving forward.

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In terms of City infrastructure, the paved area landward of the Beach Boulevard seawall extends north from Paloma Avenue and dead ends at 1567 Beach Boulevard. There is no formal road, sidewalk or vehicle access to 1567 Beach Boulevard or the two residences between Paloma Avenue and 1567 Beach Boulevard (1581 Beach Boulevard and 1 Paloma Avenue), as these other two residences are accessed via Paloma Avenue. The public is able to use the paved portion, which extends from the walkway on the western end of Beach Boulevard, and the City has used this paved area to access the beach for construction and maintenance of the Beach Boulevard seawall and the Shoreview revetments.

Beneath Beach Boulevard, there is a sewer line that is located 19-feet inland from the bluff edge at the intersection of Paloma Avenue to the south of the project site. The sewer line traverses north and begins to angle inland so that it is approximately 27 feet from the bluff edge at the southern end of the project site and 14 feet from the bluff edge at the northwest corner of the site, where it makes a right angle turn inland. After it turns inland, the sewer line runs roughly parallel to and between 14 and 18 feet from the northern property line (See **Exhibit 2** for these layouts.) No City records have been found with information on whether these lines were constructed prior to enactment of the Coastal Act or have been replaced. In theory, both sewer lines could be moved inland, hooking up with other connections in the near proximity of the project site.

Adjacent to the sewer lateral on the northern end of the site, a 72-inch storm drain pipe runs immediately adjacent and parallel to the northern property line, with an outfall that terminates above the riprap at the northwest corner of the site. This pipe and outfall could be cut back to be moved inland as the bluff edge retreats, similar to other retreat approaches proposed and approved by the Commission elsewhere in the City (e.g., with respect to the Milagra Outfall project that was authorized by the Commission in May of 2019). Due to the existing conditions of the City infrastructure as described, it appears that there are likely feasible, less environmentally damaging options than shoreline armoring in front of this site for the purpose of protecting this infrastructure (e.g., the sewer lines could be relocated, the storm drain pipe and outfall could be cut back, etc.).¹²

With respect to the City's armoring fronting Beach Boulevard itself, it is clear that some form of augmentation and or redevelopment on the armoring would be required if it is to continue to adequately protect Beach Boulevard and its infrastructure, and the City is very much interested in ensuring its continued viability. It is not clear whether the City will be able to secure adequate funding to maintain the existing seawall for its anticipated remaining life, much less the funding that would be required to build and to repair and maintain an augmented or redeveloped armoring structure in the future. The City intends to rebuild the Beach Boulevard seawall and will take the first step in this process to conduct a request for proposals during summer 2020. However, this involves

¹² Of course, such evaluation is a case and fact specific analysis, and any such analysis would be based on a formal submittal of information necessary to draw conclusions. For now, though, the available information suggests the conclusion drawn here for purposes of evaluation of options for the proposed condominium project.

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a number of unknowns including the anticipated timeline, the high cost to maintain the existing seawall for its remaining life, and whether the City will have the necessary funding to cover the total cost as well as the ongoing cost of maintenance of any new armoring. Such a project would also need to be found LCP and Coastal Act consistent, which will require its own case and fact specific analysis at some point in the future.

For now, and for the purposes of the Commission's analytic exercise for identifying a reduced setback per the LCP allowance for same, the estimated remaining life of the Beach Boulevard armoring is approximately 40 years (as determined by Cotton Shires and Associates (CSA) in a report dated March 12, 2019 and as projected by the City's engineering consultant Structus Inc. in a report from May 30, 2019).

As such, given the various uncertainties described above, and given the LCP requires the Commission to evaluate a reduced setback that can accommodate some economically viable development, it is appropriate within that analytic framework to assume the existing Beach Boulevard armoring will be in place for the next 40 years, and then to calculate a safe setback for long-term bluff erosion and short-term large episodic erosion events for the anticipated remaining life of the proposed development (an additional 10 to 35 years past the initial 40 year evaluation time frame), and to incorporate conditions to account for future potential for wave runup and overtopping and tsunami events. In doing that, including applying the OPC "medium high risk aversion" 0.5% sea level rise probability scenario and using the Applicant's historic erosion rate of 1.5 feet/year, a 105-foot setback would be sufficient to assure safety and stability for 53 years (through 2073) and would allow for about half of the property to be used for development inland of the setback (see **Exhibit 8**), providing ample space for an economically viable development.

While 1.5 feet/year is acceptable to use in this case given the site-specific nature of aerial photograph analysis from 1946-1979, it is important to note that the actual erosion rate could be greater. Additionally, the Commission typically plans for a longer time horizon than the 53-year range. Lastly there is some potential that the life of the existing armoring could be less than 40 years. In other words, the facts do not demonstrate with certainty that the site will be stable and safe for development over 53 years, rather the Commission has evaluated the evidence and it suggests that that will be the estimated time frame within which development would not be threatened by coastal hazards. It is also possible that it could be longer or shorter than that, and that is just a reality of developing along an eroding shoreline subject to coastal hazards, including in terms of the effects of sea level rise, and the Applicant must internalize and decide that such a risk is acceptable. As such, the project is conditioned to require waiver of liability and assumption of risk, and removal/relocation triggers tied to criteria that will define when it is no longer appropriate to maintain the project in light of coastal hazards. Thus, in order to assure a safe setback consistent with the requirements in the LCP, the Applicant is required to waive liability, assume the risks associated with this type of development, agree to removal requirements once the development becomes threatened, and agree that shoreline armoring specifically to protect this development is prohibited (see **Special Conditions 4, 5, and 6**).

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In addition to the aforementioned project modifications and conditions, the project is also conditioned to include additional provisions to minimize risk consistent with LCP Policy 26. Critically, the current development as proposed would be accessed from the northern end of the site closest to the northwest bluff edge that demarcates the transition from the City's shoreline protection along Beach Boulevard to the shoreline protection for the Shoreview subdivision. Due to the vulnerabilities of this area of the site, including that it appears likely that it will erode faster given it is currently unprotected by shoreline armoring, access to the development is required to be moved to the southern end of the property so as to minimize risk of losing access to the site due to bluff erosion from the north. In order to assure consistency with LCP policies that require risks to new development be minimized, conditions of approval require submittal of revised final plans that accommodate the southern, more safe access (**Special Condition 1b**). It appears that the Applicant can accommodate roughly half of the proposed development with these required modifications, and the City's zoning regulations allow for 4 units.¹³ The Commission expects that 3 units are likely, although the Applicant may be able to accommodate a greater number of smaller units.

The project as modified can be found consistent with the City of Pacifica's LCP standards regarding safety from coastal hazards, shoreline armoring, and protection of coastal resources. As modified, the project would not foreclose future opportunities for adaptation and appropriately addresses the uncertainties associated with this area of coastline and the ways in which it may be required to adapt to hazards.

Public Access and Parking

Applicable LCP and Coastal Act Provisions

The LCP requires that new development provide adequate parking facilities in order to maintain and enhance public access to the coast, and indicates that public beach parking at the north end of Beach Boulevard should be considered along with future development in close proximity to the north end of Beach Boulevard:

LUP Policy 25 (Coastal Act Section 30252(4)). The location and amount of new development should maintain and enhance public access to the coast by: ...
(d) Providing adequate parking facilities or providing substitute means of serving the development with public transportation ...

LUP Pg. C-33: West Sharp Park. The primary coastal issues in West Sharp Park include: ...². The level of beach access and appropriate numbers of parking spaces effectively located to reduce the existing serious resident-visitor parking conflict. Key to this issue are creative solutions which do not result in wholesale paving or removal of existing homes ...

LUP Pg. C-35: Sharp Park School – Ocean Park Manor Subdivision South to the North Side of Montecito. The need for public beach parking at the north end of Beach Boulevard is recognized. This parking need should be considered

¹³ Per the City's zoning regulations, the R-3 zoning district allows for 1 unit per 2,075 square feet.

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along with future development in close proximity to the north end of Beach Boulevard.

In addition, the Coastal Act's access and recreation provisions are also applicable, including:

Section 30210. 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 30211. Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212. Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. ...

Section 30213. Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...

Section 30220. 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. 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.

Section 30223. Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Analysis

The LCP requires new development to provide adequate parking facilities in order to maintain and enhance public access to the coast (LUP Policy 25). In addition, the LCP specifically indicates that one of the main coastal issues in the West Sharp Park neighborhood, where the project site is located, is a resident-visitor parking conflict (LUP page C-33). Further, the LCP provides that there is a need for public beach parking at the north end of Beach Boulevard, which should be considered along with future development in close proximity to the north end of Beach Boulevard (LUP page C-35). Meanwhile, the Coastal Act requires that maximum public access be provided,

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that development shall not interfere with the public's access to the sea, and that new development provide for public access unless doing so would be inconsistent with public safety, coastal resources, or agricultural lands, or unless adequate access exists nearby. Further, the Coastal Act prioritizes free and low cost access, and parking in this area qualifies as that and is critically important for coastal visitors given the lack of large public parking areas serving this area. In that sense, on-street parking is essentially the only means of allowing inland visitors to enjoy the beach and shoreline here.

To address project resident parking needs, off-street parking for the modified project shall be provided at a rate of 1 parking space per each one bedroom or studio unit, 2 parking spaces per each two bedroom or more unit, and 1 guest parking space for every four units (where fractions of spaces shall be rounded up (e.g., 6 units would require 2 guest parking spaces) (see **Special Condition 1c**). As such, the project will be designed to include sufficient parking to ensure that new residents and residents' guests will not encroach on the existing public parking supply. Still, in order to assure that adequate parking is provided and no spillover to street spots normally used by the public will occur, recommended conditions of approval require that revised final plans provide adequate parking be provided in compliance with code requirements for this type of development (**Special Condition 1c**) and that the street area be signed for public parking and general access north of Paloma Avenue. With the project reduction and these conditions, this project can be found consistent with the public access and parking requirements of the LCP and the Coastal Act.

Neighborhood and Community Character

Applicable LCP Provisions

The LCP requires that new development be compatible with the neighborhood, that it maintain the economic mix of housing opportunities, and that it exemplify bungalow style character, including:

LUP Pg. C-35: Sharp Park School – Ocean Park Manor Subdivision South to the North Side of Montecito

To protect the appearance and continued availability of the existing low and moderate income residential uses, the few vacant lots fronting on the east side of Beach Boulevard, and in the area east to Palmetto, should in-fill with residential uses similar to the existing adjacent uses.

LUP Pg. C-36 & -37: Sharp Park School – Ocean Park Manor Subdivision South to the North Side of Montecito

To be compatible with the low and moderate income housing and the unique beach community character, existing residential areas between the designated commercial development should be in-filled at residential densities compatible with those existing. (See Neighborhood Land Use Map). Criteria for in-fill development within existing residential areas should include:

1. Design and scale compatible with surrounding development.
2. Protection of the economic mix of housing opportunities.
3. Assurance of geologic stability, and

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4. Minimal tree removal and replacement plantings as needed.

Special attention should be given to the design character of the old bungalow style of housing; small one-story structures, wood siding, incorporation of small porches, and the intimate detailing of window trim, planter boxes, fencing and landscaping. Structures in these areas should be limited to two stories to preserve intimacy and the appropriate scale of development.

LCP Pg. C-106: Community Scale and Design

The conclusions aimed at protecting the existing scale and open appearance and character of Pacifica's coastline are:

- (...) Modern building and parking standards shall be incorporated in such a way that the existing character of the neighborhood or area is not disrupted.

Analysis

Pursuant to the LCP, in-fill residential development on the vacant lots fronting on the east side of Beach Boulevard should be comprised of residential uses similar to existing adjacent uses, compatible in design and scale with surrounding development, and should protect the economic mix of housing opportunities (see LUP pages C-35 and C-37). Further, the LCP prioritizes old bungalow style character, with small one-story structures, wood siding, small porches, window trim, planter boxes, fencing and landscaping, and indicates that structures should be limited to two stories in this neighborhood (see LUP page C-37). More generally, the LCP provides that modern buildings should only be incorporated in a way that preserves the existing character of neighborhoods (see LUP pages C-105 and C-106).

As described earlier, the proposed project is not bungalow style and generally lacks articulation. In addition, the most significant portion of the project in the public view, namely the frontage on Beach Boulevard itself, includes some design variation that helps provide some visual interest (e.g., planter boxes, patio areas, and minor differentiation of exterior building materials), but at the same time is still fairly boxy and will be perceived by viewers as a fairly large mass right on top of Beach Boulevard. On the latter, the required setbacks will essentially eliminate such massing right along the street. Provided the project incorporates some variations in articulation, bungalow style elements (e.g., balanced and proportional, sloping roofs, porches, exposed beams and rafters, columns, etc.), and is landscaped nearest Beach Boulevard to help reduce perceived massing in the public view, the project will adequately maintain community character and help meet the LCP's vision for this area in terms of design (see **Special Conditions 1d and 1j**).

In terms of the LCP requirement to maintain the economic mix of housing opportunities in this area, the project, even as reduced, would be market rate, and would presumably be at the higher end of the market, including for the reasons described earlier. As such, the project would expand the price point 'mix', as any development on the higher end of the price spectrum would. To address this, the Commission could require that the

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project be priced lower than the current higher end or could specify some other requirements to ensure lower costs for the housing that would be provided here. However, in this circumstance, including where the Commission has required that the project be significantly reduced in order to address coastal hazard issues, it seems appropriate to allow market forces to dictate price points.

In short, with regard to circumstances related to surrounding development community character and the proposed cost of new development in the existing housing market, the project can be found consistent with the LCP.

H. OTHER

Disclosure

The proposed project represents a unique set of facts, including with respect to the site's past history associated with prior CDPs. And this CDP includes important terms and conditions reflecting the set of facts as they apply to this approval, including the required conditions of approval. In order to ensure that the terms and conditions of this approval are clear to these Applicants as well as any future owners, this approval requires that the CDP terms and conditions be recorded as covenants, codes, and restrictions against use and enjoyment of the properties, and for them to be explicitly disclosed in all real estate transactions (see **Special Conditions 5 and 8**).

Future Permitting

The Commission herein fully expects to review any future proposed development at and/or directly related to this project and/or project area, including to ensure continued compliance with the terms and conditions of this CDP through such future proposals, but also to ensure that any such future proposed development can be understood in terms of the same. Thus, any and all future proposed development at and/or directly related to this project, this project area, and/or this CDP shall require a new CDP or a CDP amendment that is processed through the Coastal Commission, unless the Executive Director determines a CDP or CDP amendment is not legally required (see **Special Condition 6**).

Indemnification

Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its actions on the pending CDP applications in the event that the Commission's action is challenged by a party other than the Applicant. Therefore, consistent with Section 30620(c), the Commission imposes **Special Condition 7** requiring reimbursement for any costs and attorneys' fees that the Commission incurs in connection with the defense of any action brought by a party other than the Applicants challenging the approval or issuance of this CDP, or challenging any other aspect of its implementation, including with respect to condition compliance efforts (see **Special Condition 7**).

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CDP Determination Conclusion – Approval with Conditions

As conditioned, the Commission concludes that approval of the development adequately addresses coastal hazards, public access, and community character. Accordingly, the Commission finds that the project, as conditioned, is consistent with the certified City of Pacifica LCP and the public access and recreation policies of the Coastal Act.

I. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires that a specific finding be made in conjunction with CDP applications showing the application to be consistent with any applicable requirements of 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 that the activity may have on the environment.

The City of Pacifica, acting as the lead CEQA agency, found the project categorically exempt from CEQA (pursuant to CEQA Guidelines, Title 14, California Code of Regulations, Section 15332, for infill development projects). The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of environmental review under CEQA. The preceding findings in this report have discussed the relevant coastal resource issues with the proposal, and the CDP terms and conditions identify appropriate mitigations to avoid and/or lessen any potential for adverse impacts to said resources. Further, all public comments received to date have been addressed in the preceding findings, which are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as conditioned, would have on the environment within the meaning of CEQA. Thus, if so conditioned, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

Appendix A – Substantive File Documents

- *Moffatt & Nichol*. Coastal Hazards Study for 2212 Beach Boulevard – June 2016
- *GeoSoils, Inc.* Hazards Analysis – November 27, 2017
- *GeoForensics, Inc.* Geotechnical Investigation for Proposed Townhouse Complex – December 2017
- *GeoSoils, Inc.* Request for Additional Information – October 18, 2019
- *GeoSoils, Inc.* Slope Stability Analysis

Appendix B – Staff Contacts with Agencies and Groups

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- *City of Pacifica Planning*
- *City of Pacifica Public Works*
- *Surfrider*