CALIFORNIA COASTAL COMMISSION
South Coast Area Office
301 E. Ocean Blvd., Suite 300
Long Beach, CA 90802-4830
(562) 590-5071

F17b

Filed:	11/21/19
180th Day:	5/19/20
Staff:	JD-LB
Staff Report:	06/24/20
Hearing Date:	07/10/20

STAFF REPORT: REGULAR CALENDAR

Application No:	**5-19-0984**
Applicant:	**NXT2 Beach, LLC**
Agent:	Sherman Stacey and Hank Koning
Location:	1921 Ocean Front Walk, Santa Monica, Los Angeles County
Project Description:	Construction of a 5-story, 47-foot high, 34,750 square foot residential/commercial mixed-use development consisting of 22 market-rate residential units, 3,574 square feet of ground floor commercial space, and a two-level partial subterranean parking garage with 56 parking spaces on a 23,258 square foot vacant beach front lot.
Staff Recommendation:	Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The project site consists of a 23,258 sq. ft. beach-fronting vacant lot on Ocean Front Walk in Santa Monica. The applicant proposes to construct a 34,750 sq. ft. 5-story mixed-use building with 22 market-rate apartment units, 3,574 sq. ft. of ground floor commercial, and a 2-level 56 parking space partial subterranean garage.

Issues before the Commission raised by this CDP application include the availability of parking for commercial uses and the potential impact on coastal access, the proposal for subterranean structures and hazards associated with ocean front development, and the protection of tribal cultural resources that may be discovered during development.

Commission Staff recommends approval with sixteen (16) Special Conditions including Special Condition 1 (Assumption of Risk), Special Condition 2 (Waiver of Rights to Future Shoreline Protective Device), Special Condition 3 (Deed Restriction), Special Condition 4 (Landscaping Plan), Special Condition 5 (Construction BMPs and Water Quality), Special Condition 6 (Permit Compliance), Special Condition 7 (Conditions Imposed by Local Government), Special Condition 8 (Final Plans Conforming to Geotechnical Recommendations), Special Condition 9 (Bird Strike Prevention), Special Condition 10 (Construction Staging and Corridor Plan), Special Condition 11 (Transportation Demand Management Program), Special Condition 12 (Cultural Resource Monitoring and Treatment Plan), Special Condition 13 (Commercial Parking Signage), Special Condition 14 (Tsunami Preparedness Plan), Special Condition 15 (Parking Restrictions), and Special Condition 16 (Adaptation Plan).

In addition, under the Permit Streamlining Act, the time-frame for Commission action on this application was on or before May 19, 2020. On April 16, 2020, the Governor of the State of California issued Executive Order N-52-20 tolling the Permit Streamlining Act's timeframe for Commission action on CDP applications for 60 days. Accordingly, the Commission must act on this permit application on or before July 18, 2020.

PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING. As a result of the COVID-19 emergency and the Governor's Executive Orders N-29-20 and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please call 415-904- 5202.

TABLE OF CONTENTS

APPENDICES

EXHIBITS

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 5-19-0984 pursuant to the staff recommendation.*

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

Resolution:

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

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment**. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent 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 permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees: (i) that the site may be subject to hazards from flooding, sea-level rise, erosion and wave uprush (ii) that flooding of the first floor could occur and critical mechanical equipment may be required to be relocated above-grade in the future given that the partial subterranean garage is located near the water table and groundwater inundation is expected to increase with sea level rise in the future; (iii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iv) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (v) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

2. **Waiver of Rights to Future Shoreline Protective Device**.

    A. By acceptance of this permit, the applicant acknowledges that this project constitutes new development under the Coastal Act and is therefore not entitled to a shoreline protective device under Section 30235. Thus, by acceptance of this permit, the applicant hereby waives any rights to construct such devices that may exist under applicable law.

    B. By acceptance of this Permit, the applicant further acknowledges and agrees, on behalf of themselves and all successors and assigns, that the landowner is required to remove the development authorized by the permit if the City of Santa Monica or any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that both (1) the structure or structures are currently and permanently unsafe for occupancy or use due to coastal hazards and (2) that there are no measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices. The applicant also further acknowledges and agrees, on behalf of themselves and all successors and assigns, that the landowner may be required to remove or relocate the development, or portions of the development, pursuant to certified policies of a Local Coastal Program.

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

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

4. **Landscaping – Drought Tolerant, Non-Invasive Plants.** By acceptance of this permit, the applicant agrees that vegetated landscaped areas and planters shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. The use of pesticides and herbicides shall be prohibited. No plant species listed as problematic and/or invasive by the California Native Plant Society (http://www.CNPS.org/), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (http://www.cal-ipc.org/), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See:http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf).

5. **Construction BMPs and Water Quality.** By acceptance of this permit, the permittee shall comply with the following construction-related requirements:

    A. No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.

    B. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.

    C. Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.

    D. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.

E. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.

F. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.

G. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.

H. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.

I. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.

J. The discharge of any hazardous materials into any receiving waters shall be prohibited.

K. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.

L. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity

M. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

N. Drainage and Water Quality:

   (i) During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site toward the beach or into any streets that drain toward the beach, unless specifically authorized by the California Regional Water Quality Control Board;

   (ii) All equipment and materials shall be stored and managed in a manner to minimize the potential of pollutants to enter the beach and surrounding sensitive areas;

(iii) All runoff leaving the site shall be directed away from the beach and into the City storm drain system;

(iv) No water from any pool or spa shall be discharged toward the beach or street that drains to the beach.

6. **Permit Compliance.** The permitted use of the approved development is residential with visitor-serving ground floor commercial. All development must occur in strict compliance with the proposal as set forth in the application for permit (including the proposed onsite parking) subject to the conditions of this permit. Any deviation from the approved plans, any change in use, or changes to the approved parking, must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required.

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

8. **Final Plans Conforming to Geotechnical Recommendations.**

   A. By acceptance of this permit, the applicants agree that all final design and construction plans shall be consistent with all recommendations contained in *Geotechnical Investigation Report Proposed Apartment Building 1921 Ocean Front Walk Santa Monica, California,* by Geotechnical Professionals, Inc., dated August 15, 2019*,* and supplement dated October 15, 2019. However, the design measure to address groundwater (water-proofing, resistance to hydrostatic pressure) should apply to all structural components below +14 feet in elevation. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

   B. **PRIOR TO COMMENCEMENT OF CONSTRUCTION**, the applicants shall submit, for the Executive Director's review and approval, two sets of plans showing final elevations, floor plans, foundation plans, and section drawings with evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all the recommendations specified in the above-referenced report.

   C. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur

without a Commission amendment unless the Executive Director determines that no amendment is legally required.

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

10. **Construction Staging and Corridor Plan.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicant shall submit for review and approval of the Executive Director a construction staging and construction corridor plan that has no impacts to public access. The construction staging shall not take place on any sandy areas or beach, and not in beach parking lots.

11. **Transportation Demand Management Program.** By acceptance of this permit, the permittee agrees to maintain the Transportation Demand Management program at all times which includes, but is not limited to, the following:

    A. The applicant and its successors and assigns shall actively encourage employee and residents and customers participation in a Transportation Ride Sharing program.

    B. A public transit fare reimbursement program shall be implemented by the applicant or its successors and assigns. All commercial tenants shall offer full (100 percent) reimbursement of public transit fares to and from work to all employees of the development, provided that the employee purchases a monthly regional public transit pass of the employee's choice (e.g. Big Blue Bus 30-day Pass, Metro EX Pass, Metro TAP or equivalent). An employee accepting the transportation allowance shall be required to sign a statement agreeing said employee will not utilize a single occupancy vehicle for the majority (at least 51%) of their daily commute distance more often than: (a) five working days per month or (b) 25% of their days of work per month, whichever is less. The employee's statement shall also specify the employee's alternative commute mode (e.g. transit, bike, walk). The employee must demonstrate compliance as reasonably required by the employer.

C. The applicant and its successors and assigns shall provide secure bicycle parking, free of charge, on the property for the public, including residents, employees and visitors consistent with the project plans.

D. The applicant and its successors and assigns shall implement a publicity program, the contents of which is subject to the review and approval of the Executive Director, that indicates how the future occupants of the development will be made aware of the provisions of this special condition. The publicity program shall be implemented during the first month of occupancy of the new development and shall be distributed to residents and employees annually thereafter for the life of the development.

E. Any proposed changes to the measures shall be submitted to the Executive Director to determine if an amendment to the permit is legally required.

12. Cultural Resource Treatment and Monitoring Plan. By acceptance of this permit the applicant agrees to comply with the following:

A. Incorporate the following into the archeological monitoring plan:

(i) Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, and a minimum of 1 Native American monitor from each tribal entity with documented ancestral ties to the area appointed consistent with the standards of the Native American Heritage Commission (NAHC), and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD, shall monitor all project grading, excavation work, site preparation or landscaping activities associated with the approved development. Prior to the commencement and/or re-commencement of any monitoring, the permittee shall notify each archeological and Native American monitor of the requirements and procedures, and shall provide a copy of this special condition, any archaeological monitoring or research plans, past archeological reports, and any other plans required pursuant to this condition and which have been approved by the Executive Director, to each monitor;

(ii) The permittee shall provide sufficient archeological and Native American monitors to assure that all project grading and any other subsurface activity that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times;

(iii) The Native American Monitor(s) shall be required until native soils have been reached.

B. If an area of tribal cultural deposits is discovered during the course of the project:

(i) All construction and subsurface activities that have the potential to uncover or otherwise disturb tribal cultural deposits in the area of the discovery shall cease within 50 feet of the deposit immediately;

(ii) the permittee shall report all discovered resources as soon as possible, by phone for by email to the Executive Director;

(iii) The professional archeological monitor onsite must contact all affected groups of the Native American Tribe that are not present for onsite monitoring and notify them of the discovery in order to determine the results of (iv) and (v) below;

(iv) Significance testing may be carried out only if acceptable to the affected Native American Tribe, in accordance with the attached "Cultural Resources Significance Testing Plan Procedures" (Appendix B) and in consultation with the Tribe. The Executive Director shall, in writing, determine the adequacy of the Significance Testing Plan and if it can be implemented without further Commission action, provide written authorization to proceed. The Significance Testing Plan results, if applicable, along with the project archaeologist's recommendation as to whether the discovery should be considered significant, and the comments of the Native American monitors and MLD when State Law mandates the identification of a MLD, shall be submitted to the Executive Director for a determination. If the Executive Director determines that the discovery is significant, development shall not recommence and the permittee shall submit to the Executive Director a Supplementary Archaeological Plan consistent with Appendix B.

(v) The treatment method or mitigation measure for the discovery shall be prepared in consultation with the Native American monitor(s), and the MLD when State Law mandates the identification of a MLD. The permittee shall inform the Executive Director of the treatment method in writing. In-situ preservation is the preferred treatment and can be achieved through such methods such as, but not limited to, project redesign, capping, and deeding the cultural resource areas in open space. The range of treatment and mitigation measures considered shall not be constrained by the approved development plan.

C. If the Executive Director determines that the discovery is significant or that the treatment method preferred by the affected Native American tribe is in conflict with the approved development plan, the permittee shall seek an amendment from the Commission to determine how to respond to the discovery and to protect both those and any further cultural deposits that are encountered. Development within at least 50 feet of the discovery shall not recommence until an amendment is approved, and then only in compliance with the provisions of such amendment.

13. Commercial Parking Signage

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, a signage plan showing the size, wording and location of signs. The size of the signs shall be at least 14" in height and 18" in length. Alternatively, the applicant may provide plans to incorporate parking availability messages into an electric message board. The signage shall be located in conspicuous locations adjacent to the public parking entrances, informing the public of the commercial visitor parking.

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

14. Tsunami Preparedness Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, 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 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.

15. Parking Restrictions. With the acceptance of this permit, the applicant and all future assigns acknowledge and agree that any change in the parking proposed in the application for this coastal development permit, including, but not limited to, the provision of the leasing or selling of parking spaces to third parties, or reserving parking spaces for other uses not approved by this permit, or change in the number of shared parking spaces between residential and commercial uses, shall be submitted to the Executive Director to determine if an amendment to the permit is legally required.

A. The following requirements shall apply:

(i) The applicant shall maintain a minimum of 6 EV charging stations for the life of the development.

16. **Adaptation Plan and Monitoring Reports. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, a detailed sea level rise adaptation plan that shall identify specific adaptation measures for addressing potential impacts to the proposed development that may occur due to sea level rise using, at a minimum, the medium-high risk aversion scenario in the Ocean Protection Council's *State of California Sea-Level Rise Guidance 2018 Update*. The applicant shall be responsible for retrofitting the development if necessary to ensure structural integrity and/or reconstructing access amenities in the public easement area if necessary to retain their continuity and/or utility due to impacts of sea level rise and coastal erosion. The adaptation plan shall include, at a minimum:

    1) identification of triggers for when specific adaptation measures will be implemented, including exposure of compaction grout columns due to sea level rise; and

    2) identification and analysis of adaptation measures to be implemented when the identified triggers occur, including retrofit options, soft protection measures, and modified operations, based on anticipated threats of sea level rise, flooding, inundation and erosion.

    The permittee shall submit to the Commission Executive Director, for written review and approval, a monitoring report 15 years from the date of Commission approval of this coastal development permit, and every 15 years thereafter, providing an analysis of the status of the identified triggers that dictate when adaptation measures will be implemented. The monitoring report shall include a quantification of total erosion, flood elevations, and projected changes, and available space to allow for property reconfiguration and/or relocation, using the OPC's *State of California Sea-Level Rise Guidance 2018 Update* and the Commission's *Sea Level Rise Policy Guidance*, and any future updates thereto. If a monitoring report establishes that one of the identified triggers has occurred, the permittee shall notify the Commission Executive Director and, within six (6) months of the date the monitoring report is submitted to the Coastal Commission, submit an application to amend this coastal development permit to implement the necessary adaptation measure(s), unless the Commission Executive Director determines that no amendment is legally required.

IV. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION & DESCRIPTION

The applicant, NXT2 Beach, LLC proposes to construct an 5-story, 47-foot high, 34,750 square foot residential/commercial mixed-use development consisting of 22 residential units, 3,574 square feet of ground floor commercial space, 3,282 square feet of residential common space, 47 (short-term and long-term) bicycle parking spaces (8 for commercial employees, 39 for residential guests) and a 23,770 square foot two-level partial subterranean parking garage with 56 parking spaces (Exhibit 2) on a vacant lot (Exhibit 3). The 56 parking spaces will be divided among residential and commercial use. The applicant proposes 13 commercial parking spaces, 39 residential parking spaces and four

residential guest parking spaces. Of the 56 parking spaces, 2 electric vehicle charging stations will be provided and 4 additional spaces will be EV capable. The subject site slopes upward from west to east and there is a large change in grade between the beach side and the inland street side. The lowest finished floor on the seaward side of the proposed structure will be approximately at existing grade, while the lowest finished grade at the landward side of the proposed structure will be 27.15 feet below existing grade. There are no subterranean portions of the development proposed on the oceanfront side of the structure. A small portion of the structure will contain a subterranean level (1 of 2 parking levels) at the inland side of the building to be constructed below the existing beach grade. Both levels of the parking garage will be below existing street grade.

Of the 22 proposed market-rate residential units, the applicant proposes 12 one-bedroom apartments, 7 two-bedroom apartments and 3 three-bedroom apartments. The average sizes of the proposed residential units are: 973 square feet for the one-bedroom apartments, 1565 square feet for the two-bedroom apartments and 1866 square feet for the three-bedroom apartments. Of the 22 residential units, none are proposed to be maintained as affordable rental units. Pursuant to local ordinances, the City requires that affordable units be constructed with new housing projects, at a rate proportional to the number of new units. For the 22 new units proposed here, the City typically requires that 4 of the units be affordable. There is a related project for a nearby housing project at 1828 Ocean Avenue (Ref: CDP Application No. 5-19-0983), which will also be heard by the Commission at the July meeting. The City requires the provision of four affordable units as part of the proposed mixed-use development at 1828 Ocean Avenue. Therefore, a total of 16 affordable units will be constructed at 1828 Ocean Ave. to fulfill the City's affordable housing requirements for both projects.

The 23,258 square foot site located at 1921 Ocean Front Walk is currently vacant land purchased from the City of Santa Monica for housing development in September 2012. The site is located on the seaward border of the Oceanfront and Beach Overlay Districts. This area is generally mixed with hotel accommodations, restaurants, medium to high density residential buildings, parks, public beaches and public parking. The site is bounded by Ocean Way to the east, Bay Street to the south, Ocean Front Walk to the west and Hotel Casa Del Mar to the north (Exhibit 1).

The proposed ground floor is accessible from Ocean Front Walk (the public walkway that borders the beach) and would consist of a total of 3,574 square feet of visitor-serving and pedestrian-orientated commercial uses to be divided into two separate tenant spaces (a restaurant and a corner market). To protect the commercial area from episodic flooding in the future, the applicants provided short-term and long-term adaptation measures. As a precaution, the proposed partial subterranean garage will feature various waterproofing measures. The floor and walls of the lowest level are designed to be waterproof. Any water seepage will be collected using a sump pump and discharged into the storm drain.

The proposed partial subterranean parking garage will be accessible from Bay St. The applicant proposes to "unbundle" all parking spaces, thereby leasing parking to the residential and the commercial tenants separately from their respective units and tenant spaces.

While the site is currently vacant, the previous use of this site was a pump station that the applicant has stated was constructed by the City for Santa Monica in the early 1920's. The partial subterranean portion of the pump station consisted of a concrete encased reservoir overlain by a pump house. As part of the decommissioning of the pump station, the above-grade and near surface portions were previously demolished and the deeper portions of the pump station were abandoned in place. The abandoned pump station is located on the east half of the site (Exhibit 5).

The project proposes a grading depth of 31 feet and 5,435 cubic yards that will be exported to a disposal site in Irwindale, CA. In order to stabilize the subject site prior to construction, the applicant proposes to undertake compaction grouting (exhibit 7) which "increases the density, strength, and stiffness of the ground through slow, controlled injections of low-mobility grout that compacts the soil as the grout mass expands (American Society of Civil Engineers)." The proposed foundation will consist of a typical mat foundation over the area of the abandoned pump station. Additionally, the applicant will use pad footings throughout the site to mitigate the deep fills and potentially liquefiable natural soils. The foundations proposed along Ocean Front Walk include four widely separated pad footings which are approximately 2 feet thick, each 140 square feet in area, and the bottom of each is approximately 3 feet below existing grade (Exhibit 6).

Lastly, the applicant proposes a Transportation Demand Management (TDM) Plan to reduce the demand for the on-site parking facilities to the extent practicable. The applicant has provided a Transportation Demand Management plan that includes onsite transportation information, a Project Transportation Coordinator, as well as Commercial and Residential Programs.

B. HAZARDS

Coastal Act Section 30253 states, in pertinent part:

New Development shall do all of the following:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Due to its location immediately inland of Santa Monica Beach, a potentially hazardous area, the project site must be examined for the potential for erosion, flooding, wave attack and wave runup hazards, including consideration of potential impacts due to severe storm events. Moreover, these hazards may be exacerbated by expected future sea level rise, which must also be considered. In this geographic area, the main concerns raised by development are potential exposure of the proposed development to coastal flood due to sea level rise (SLR) and whether future hazardous conditions might eventually threaten the building's foundation and lead to a request to build a shoreline protection device to protect

the proposed development. Sea level rise models suggest the site could become at risk near the end of the expected 75-year life of the proposed mixed-use structure. To address questions raised by these issues, the applicant's civil engineer provided a Coastal Hazards and Wave Runup Study (GeoSoils, Inc., October 26, 2016).

Sea Level Rise

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

The State of California has undertaken significant research to understand how much sea level rise to expect over this century and to anticipate the likely impacts of such sea level rise. In April 2017, a working group of the Ocean Protection Council's (OPC) Science Advisory Team released *Rising Seas in California: An Update on Sea-Level Rise Science*.[2] This report synthesizes recent evolving research on sea level rise science, notably including a discussion of probabilistic sea level rise projections as well as the potential for rapid ice loss leading to extreme sea level rise. This science synthesis was integrated into the OPC's *State of California Sea-Level Rise Guidance 2018 Update*.[3] This Guidance document provides high-level, statewide recommendations for state agencies and other stakeholders to follow when analyzing sea level rise. Notably, it provides a set of projections that OPC recommends when assessing potential sea level rise vulnerabilities for various projects. Taken together, the Rising Seas science report and updated State Guidance account for the current best available science on sea level rise for the State of California. The updated probabilistic projections in the 2017 Rising Seas report and the 2018 OPC Guidance suggest sea levels could rise between 2.3 and 6.8 feet by 2100 at the Santa Monica tide gauge[4], under a high greenhouse gas emissions scenario. The OPC Guidance recommends that development of only moderate adaptive capacity, including residential development, use the high end of this range, 6.8 feet, to inform decisions regarding development. The updated Rising Seas science report and OPC Guidance also include an extreme scenario (termed the "H++" scenario) of 10 feet of sea level rise by

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

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

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

[4] The OPC Guidance provides sea level rise projections for 12 California tide gauges, and recommends using the projections from the tide gauge closest to the project site. The projections for the LA tide gauge can be found on page 69 of the OPC Guidance.

2100 based on recent modelling efforts that look at possible sea level rise associated with rapid ice sheet loss. These projections and recommendations are incorporated into the 2018 update of the Coastal Commission Sea Level Rise Policy Guidance[5].

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

Rising sea levels will continue to intensify hazards along the shoreline, including inundation, storm flooding, erosion, saltwater intrusion into aquifers, groundwater rise, and liquefaction. Some shoreline development will experience increasingly hazardous conditions over time; therefore, to ensure safety and structural integrity consistent with Section 30253 of the Coastal Act, development must be sited and designed in such a way that takes into account the anticipated impacts of sea level rise over the full time span of its economic life.

Adverse Coastal Impacts Due to Shoreline Protection Devices

The Coastal Act discourages shoreline protection devices because they generally cause significant impacts on coastal resources and can constrain the ability of the shoreline to respond to dynamic coastal processes. This is expected to be exacerbated with future sea level rise. Adverse impacts associated with shoreline protection devices include: as a sandy beach erodes, the shoreline will generally migrate landward, toward the structure, resulting in reduction and/or loss of public beach area and in some cases, public trust lands, while the landward extent of the beach does not increase; oftentimes the protective structure is placed on public land rather than on the private property it is intended to protect, resulting in physical loss of beach area formerly available to the general public; the shoreline protection device may actually increase the rate of loss of beach due to wave deflection and/or scouring (this is site-specific and varies depending on local factors); shoreline protection devices cause visual impacts and can detract from a natural beach experience, adversely impacting public views; and, shoreline protection devices can lead to loss of ecosystem services, loss of habitat, and reduction in biodiversity compared to natural beaches.[6] All of these impacts are likely to occur as a result of a shoreline protection device being constructed at this beach due to expected sea level rise within the economic life of the project. Together, these risks raise the question of potential impacts to the subject site due to these coastal hazards, which in turn raises the question of a possible request for future shoreline protection at the site.

[5] https://www.coastal.ca.gov/climate/slrguidance.html
[6] Summarized from http://www.beachapedia.org/Seawalls

Shoreline protective devices, by their very nature, tend to conflict with various statewide LCPs and Chapter 3 policies because shoreline structures can have a variety of adverse impacts on coastal resources, including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach. Because shoreline protection devices, such as seawalls, revetments, and groins, can create adverse impacts on coastal processes, Coastal Act Section 30253 specifically prohibits development that could "…create [or] 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."[7]

In order to avoid the adverse impacts of shoreline protection devices (described above), it is important to assure that new development not be permitted shoreline protection to the extent such shoreline protection would be inconsistent with Coastal Act Chapter 3 coastal resource policies. If it is known that the development requires shoreline protection, it would be unlikely that such development could be found to be consistent with Section 30253 of the Coastal Act which, as stated above, requires that new development not *create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area,* given the well-known coastal resource impacts that shoreline protection typically causes.

Public Costs/Loss of Public Beach/Impacts to Public Trust Lands

Requests for shoreline protection devices are common when development is threatened by erosion, flooding, and storm activity. From a public access perspective, a major concern with shoreline protection is the threat of lost public beach area. As the beach erodes, the shoreline retreats landward toward developed areas. Shoreline protection devices also directly interfere with public access to tidelands by impeding the ambulatory nature of the boundary between public and private lands. The impact of a shoreline protection device on public access is most evident on a beach where wave runup and the mean high tide line are frequently observed in an extreme landward position during the winter season. As the shoreline retreats landward due to the natural process of erosion, the boundary between public and private land also retreats landward. Construction of shoreline protection such as rock revetments and seawalls to protect private property would prevent any current or future migration of the shoreline landward, thus eliminating the distance between the high-water mark and low water mark. As the distance between the high-water mark and low water mark narrows or disappears, the seawall effectively eliminates lateral access opportunities along the beach as the entire area below the fixed high tideline becomes inundated. The ultimate result of a fixed tideline boundary (which would otherwise normally migrate and retreat landward, while maintaining a passable distance between the high-water mark and low water mark overtime) is a reduction or elimination of the area of sandy beach available for public access and recreation.

[7] However, section 30235 of the Coastal Act recognizes that "existing" development may be protected by a shoreline protective device subject to certain conditions. Section 30235 does not apply here because the proposed project is plainly new development.

Interference by shoreline protection devices can result in a number of adverse effects on the dynamic shoreline system and the public's ability to access the beach. First, changes in the shoreline profile, particularly changes in the slope of the profile which results from a reduced beach berm width, alter the usable beach area. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This narrows the beach area available for public access. The second effect on access is through a progressive loss of sand as shore material is not available to nourish the nearshore sand bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. This affects public access again through a loss of beach area. Third, shoreline protection devices such as revetments, seawalls, and bulkheads cumulatively affect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline and they reach a public beach. In addition, if a seasonal eroded beach condition occurs with greater frequency due to the placement of a shoreline protection device on the subject site, then the beach would also accrete at a slower rate, if at all. Fourth, if not sited landward in a location that ensures that the seawall is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate wave energy. Moreover, even when shoreline protection is not present, the placement of structures along an eroding shoreline can impact beach areas and public trust lands. As the shoreline migrates inland, structures may become located on beach areas and/or public trust lands, occupying land that would otherwise be available for public access, ecosystem services and other coastal resource benefits.

Coastal hazards and shoreline protective devices also raise public trust concerns. The common law public trust doctrine protects the public’s right to access tidelands, submerged lands, and navigable waters, which the State holds in trust for the public’s use and enjoyment. This doctrine is enshrined in California’s Constitution, which provides in Article X, section 4, that no individual may “exclude the right of way” to any “frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State.” Cal. Const. Art. X, Sec. 4. The Constitution further directs the Legislature to enact laws that give the most “liberal construction” to Article X, section 4, so that access to navigable waters of the State “shall be always attainable for the people.”

As discussed above, future sea level rise will cause the landward migration of the intersection of the ocean with the shore and, thus, the tidelands and submerged lands that are public trust resources. To the extent that shoreline protective devices contribute to erosion and blockage of the natural inland migration of the beach and shoreline, and thus result in the loss of natural beaches that allow the public to access tidelands and submerged lands, their construction is also inconsistent with the State’s obligation to protect the public’s right to access these areas. Knowing, as we do, that our understanding of how fast and how severe sea level rise will occur, and the precise impacts on particular coastal areas, is an evolving area of scientific inquiry, the Coastal Commission must act conservatively to manage public trust resources in a way that will protect them for future generations. For this additional reason, the Coastal Commission is unlikely to approve

proposals for new development that require shoreline protective devices, as their construction threatens public trust resources managed by the Coastal Commission.

Moreover, private commercial and residential uses are not public trust uses and the existence of private commercial and residential uses, such as the proposed project, on future public trust lands likely would conflict with the public's right to use and enjoy such lands. In addition, private development on or immediately adjacent to public beaches creates conflicts with the public access and recreation policies of the Coastal Act. Thus, the Commission's action on this project must consider the natural shoreline processes and public access under current conditions, and under future conditions, when it is likely that the sandy beach shoreline seaward of the subject site may erode and move inland, and/or coastal flooding may result in inundation of the subject site. Rather than contemplate shoreline protection devices to protect new development in the future, current development proposals must consider adaptation measures that could be implemented should development become threatened.

Site-Specific Evaluation

In order to evaluate whether the proposed development would be consistent with Coastal Act Section 30253's requirement to minimize hazards, the applicant has submitted a Coastal Hazard and Wave Runup Study, prepared by GeoSoils, Inc., dated October 26, 2016 (Study). The Study states:

Using the CCC estimate over the project design life that range in the year ~ 2092 is between 1.25 feet and 4.75 feet. This is the sea level rise for the proposed project. The analysis herein shows that it is unlikely that wave runup will reach the site even with 4.75 feet of SLR. As a check to our analysis, the USGS has also developed a model called the Coastal Storm Modeling System (CoSMoS) for assessment of the vulnerability of coastal areas to SLR and the 100-year storm…The program is a reliable third party conservative verification for any site specific independent coastal engineering analysis. The vulnerability of the site to four different SLR scenarios and the 100-year storm can be assessed. You will note that even under 150 cm (4.9 feet) of SLR, Ocean Front Walk and the site improvements are not in the flooding or inundation zone.

The highest historical groundwater elevation at the site is at about 10 feet below grade (Ocean Front Walk elevation) or elevation +8 feet NAVD88 (Geotechnical Professionals, Inc., 2016). If there is up to 4.75 feet of SLR in 75 years, the future maximum groundwater elevation at the site would be the historical high groundwater elevation plus at most about 3 feet (63% of 4.75) or about elevation +11 feet NAVD88. All site grades including Ocean Front Walk are above elevation +11 feet NAVD88, and the lowest habitable finished floor (not garage floor) is about +16 feet NAVD88 which is above both the future maximum ocean water level of +13 feet NAVD88 and groundwater at +11 feet NAVD88. The project does include a below grade parking facility with foundation elements at about elevation 11 feet NAVD88. All below grade improvements will be waterproofed per the recommendations of the project geotechnical consultant, Geotechnical Professionals, Inc.

The Study considered impacts to the site using a sea level rise range of 1.25 feet and 4.75 feet. The provided analysis used a maximum sea level rise of 4.75 feet by 2092 and

concluded that “coastal hazards in consideration of sea level rise will not significantly impact this property.” In March 2020, GeoSoils, Inc. examined the most recent OPC and Coastal Commission guidance and determined that “the range in the year ~2095 (at the end of the project’s 75-year design life) is between 1.4 feet and 6.15 feet. This is the sea level rise range that the project could experience.”

The 2018 OPC Guidance and 2018 Coastal Commission Sea Level Rise Policy Guidance provide the current best available science on SLR, including projections of future SLR under several different scenarios. The Guidance recommends that hazards to new residential development should be evaluated using sea level rise projections associated with a “medium-high” level of risk aversion, and which in the science report supporting the 2018 OPC Guidance had an estimated 0.5% probability of exceedance. These projections include a relatively rapid increase in the rate of SLR (due mostly to ice sheet melting), and provide a precautionary basis for evaluating new development, such as the proposed structure, which have a low adaptive capacity. For the project area, the medium-high risk aversion projections, under a high emissions scenario, are for 5.5 feet of SLR by 2090 and 6.8 feet of SLR by 2100. Applying these projections, the proposed development may be threatened earlier than identified in the applicant’s Study and prior to the end of its expected 75-year life. In addition, the updated Rising Seas science report and OPC Guidance also recognize the possibility of an extreme scenario (termed the “H++” scenario) of 10 feet of sea level rise by 2100 associated with possible future rapid ice sheet loss. USGS CoSMoS, a sea level rise modeling tool, shows that the subject site and surrounding area may be impacted by 6.6 feet (2 m) of future sea level rise and 100-year storm flooding (Exhibit 4). 6.6 feet of sea level rise falls between the 2090 and 2100 probabilistic scenarios of sea level rise of 5.5 and 6.8 feet. This indicates that potential coastal flooding during a 100-year storm could occur toward the end of its 75-year life under the higher SLR projections. The output of the CoSMos modeling displays flooding along the seaward edge of the site, potentially affecting commercial use of the project and support for the building foundation.

The site soils will be stabilized with grouted columns underlying the shallow pier foundations and the building footprint. The grouted columns will extend to the seaward limit of the building. These columns will be constructed with unreinforced, lean-mix concrete – a low-strength, erodible concrete mix and they will support the building and reduce potential differential settlement. If sand levels drop to expose these grouted columns to wave forces, the columns will have little resistance to erosion and support for the seaward part of the building would be reduced, potentially leading to greater settlement if the columns lose sufficient integrity. Threats to the building would not occur at the instance that the columns become exposed; but exposure could indicate the potential for the column strength to decrease as the columns erode. If this should occur sometime in the future, the property owner would have several options to address the loss or diminishment of column support, such as the installation of grade beams to shift some of the seaward load to more inland foundation elements, augment the grout columns with additional grout or reduction of the building’s seaward load by reducing the seaward extent of some of the development. The project is designed with an outdoor dining patio on the seaward side of the building. This portion extends approximately 10 to 20 feet beyond the building structure. The removal or abandonment of this commercial space could provide an option

for first stage adaptation to minimize risk to the portions of the building that are vulnerable to sea level rise. Therefore, although the proposed development is currently structurally sound and safe from coastal hazards, and is expected to be for most of the economic life of the development, coastal hazards may threaten the structure towards the end of its economic life. To address potential impacts due to sea level rise, **Special Condition 16** requires the applicant to submit an adaptation plan that identifies triggers for implementation of adaptation measures, including, potentially, modifications, retrofitting and/or reconstruction of the development in order to address potential future impacts due to sea level rise and coastal hazards, as well as a monitoring plan. The adaptation plan shall cover options to maintain or modify the flood-proofing measures, the foundation elements and foundation connections that could be jeopardized by future wave impacts and erosion; however, the adaptation options shall not result in any additional seaward encroachment of the development or the installation of foundation elements that would have the effect of creating shoreline protection. The plan should be developed with input from the fields of architecture, civil engineering (with knowledge of coastal processes and coastal design), structural engineering, geotechnical engineer, engineering geology or other appropriate disciplines.

Additionally, expected future sea level rise will also likely lead to an increase in the groundwater table, potentially having additional impacts on the structure. According to the geotechnical report, structures that extend below the design groundwater elevation should prepare for hydrostatic pressure, buoyant forces and water contiguity with the floor slab.

Sea Level Rise Impacts on Groundwater
Using the OPC guidelines and CC SLR Policy Guidance and under a Medium-High risk aversion of 5.5 ft. (2090) or 6.8 ft. (2100) of SLR would suggest a future maximum ocean water level of 13.8’ NAVD88 and 15.1’ NAVD88, respectively, instead of 9.7’ NAVD88 and 14.4’ NAVD88 as cited in the GeoSoils report (March 2020). These two SLR scenarios (5.5 ft. and 6.8 ft.) are representative of a high emissions pathway.

“Due to the proximity of the site to the ocean and the sandy nature of the subsurface soils, the groundwater levels can be expected to fluctuate with the tide level,” according to the report provided by Geotechnical Professionals, Inc. It would be expected that there would be responses of the groundwater to tides, but the likely larger expected fluctuation of groundwater would be with sea level rise as reported in, among others, Hoover et al. (2016), “Increasing sea level by 1 m shifts groundwater up by the same amount and results in the present-day shallow (0–1 m depth) groundwater regions becoming emergent groundwater areas, while the present-day intermediate (1–2 m depth) areas become shallow 0–1 m regions (Fig. 4C, Table 7).” As described in the GeoSoils report, the highest historical groundwater elevation at the site is at about 10 feet below grade or elevation 8’ NAVD88. GSI mistakenly characterizes the reduced influence of tidal fluctuations on groundwater as the groundwater location moved inland from the tidal forcing, with the more direct influences of sea level rise on the overall groundwater elevation. Rather, as noted by Geotechnical Professionals Inc. and Hoover et al, increases in sea level rise would be added to the groundwater elevations. Thus, the projections for future groundwater elevation with a rise in sea level ranging from 5.5’ to 6.8’ would be 13.5’ NAVD88 to 14.8’ NAVD88.

GSI correctly notes that the tidal response could affect the groundwater level and that the influences of the tidal fluctuations would be expected to lessen with distance from the tides. The highest historic groundwater at this site might have included the influence of tidal response and, if so, the future maximum groundwater elevation of 13.5' NAVD88 to 14.8' NAVD88 might already account for tidal fluctuations, based upon the historic trends of the tidal range. If the historic maximum groundwater elevation did not capture information from a high tide condition, then, in addition to the overall rise in groundwater with sea level rise, there would be an additional fluctuation of the groundwater in response to the tidal changes. Based on tide records for Santa Monica, Mean Higher High Water and Mean High Water (1982 – 2001 tidal epoch) are 2.64' and 1.9' above Mean Sea Level, respectively. With GSI's proposed tidal dampening of 63%, this could add 1.2' to 1.7' of additional groundwater elevation, causing future maximum groundwater elevations up to about 16' to 16.5' NAVD88.

The project does include a below grade parking facility with foundation elements at about elevation 11' NAVD88. The project site has a significant grade change between the beach level and the street level. Due to this design, the site has a day-lighted first floor. The portion that is subterranean is farthest from the beach, uprush zone, and associated potential hazards. Future groundwater levels could pose concerns for the proposed partial subterranean parking facility. Recognizing this concern, the applicant has stated that all below grade improvements will be waterproofed per the recommendations of the project geotechnical consultant, Geotechnical Professionals, Inc. However, the design recommendation of water-proofing only up to +10 feet in elevation is not adequate to account for rising groundwater levels over the next 75 years under the higher SLR scenarios. Given that groundwater levels at the site will be influenced by sea level rise, a higher groundwater elevation design should be used for all design elements that consider groundwater elevation, including water-proofing, hydrostatic loads and foundation design. For these design purposes, the possible future groundwater elevation on the western portion of the site should be at least up to 14.8' NAVD88 if the highest historic groundwater elevation represented the groundwater elevation at a higher high tide, or 16.5' NAVD88 if the highest historic groundwater represented a mean sea level condition. These elevations use the higher range or future sea level rise conditions and the Mean Higher High Water tide elevation and provide a conservative future groundwater projection. This is a precautionary approach to address the groundwater impacts on the subterranean portions of the project. Therefore, **Special Condition 8** requires that the applicant conforms to the recommendations of the geotechnical report aside from our recommendation that all design efforts to address groundwater, such as hydrostatic loads, foundation design and water-proofing measures, be designed to account for the possible future groundwater elevation that included the maximum historic groundwater elevation plus sea level rise of at least 6.8', plus MHHW fluctuation of an additional 1.5', if not already included in the maximum historic groundwater elevation.

Additional adaptation measures could be necessary to address flooding on the western edge of the site along Ocean Front Walk. According to Table 26 of the State of California Sea-Level Rise Guidance, the probability in Santa Monica that sea-level rise will meet or exceed 5 feet by the year 2090 is 0.8% and a 0.3% probability to meet or exceed 6 feet under a high emissions scenario (RCP 8.5) (best available science). Although the

probabilities seem low, sea level rise projections will continue to change over time. In addition, sea level rise in combination with shoreline retreat and wave runup must not be evaluated in isolation. The combined effects could pose additional flooding hazards and should be analyzed together. With such scientific uncertainty, the Commission recommends a precautionary approach to such hazards. As such, **Special Condition 16** requires adaptation measures to address the potential of future flooding, erosion and grout column exposure at the site.

Adaptation Measures
Although predictions about the amount of sea level rise that is likely to occur over the economic life of a proposed development and the impacts that may result have some amount of uncertainty, particularly when looking at impacts that are likely to occur closer to the end of the structure's economic life (e.g., 75 years), Section 30253(a) requires the Commission to minimize risks to life and property in areas of high flood hazard, such as development on oceanfront properties. The Commission recognizes that the proposed structure is currently structurally sound and safe from sea level rise, and is expected to be for many years, and that some of the potential impacts identified in this staff report may not, ultimately, occur. Therefore, as discussed above, the Commission imposes **Special Condition 16** to require the applicant to identify potential adaptation measures should more significant amounts of sea level rise occur. When analyzing options, it is important to identify what site conditions would trigger specific short-term and long-term adaptation measures (e.g. exposure of the compaction grout columns). Therefore, the condition would require the applicant to submit monitoring plans to the Commission Executive Director every 15 years analyzing whether the identified triggers have occurred. Lastly, it is important to ensure that adaptation measures do not result in the need for future shore protection (as discussed further below) or encroach on public walkways including the nonexclusive public easement along Ocean Front Walk. The proposed project has submitted preliminary measures to counter storm events and flooding. Additional measures for foundation erosion are needed. In the event such measures became necessary, the landowners would be required to apply for a new permit to amend the CDP pursuant to **Special Condition 16**.

Tsunami Risk
There would appear to be some risk to the site from a large tsunami event, based on the 2009 CalOES map, which displays a hazard zone based on the combined tsunami runup of multiple potential large, low-probability events arising from different generating sources. In order to assure that the development will minimize risks to life and property, **Special Condition 14** specifies 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.

No Shoreline Protection
Because the best available science indicates the proposed development could likely be threatened by coastal hazards as a result of sea level rise at some point during its 75 year life, under section 30253, the Commission may not approve the project unless it finds: 1) the project does not create or significantly contribute to erosion, geological instability, or destruction of the site or surrounding area (section 30253(b)), 2) the project assures

stability and structural integrity (section 30253(b)), and 3) the project minimizes “risks to life and property” in areas of high flood hazard (section 30253(a)).

As discussed above, an important concern under section 30253 is the potential need for shoreline protection to protect against coastal hazards related to sea level rise, because shoreline protective devices typically conflict with section 30253(b)’s prohibition on new development that either creates or contributes significantly to erosion or destruction of a site. Here, the applicant has not proposed to construct a shoreline protection device and no shoreline protection would be authorized by this permit; however, nothing would prevent the applicant from requesting a shoreline protection device at some point in the future. Therefore, because of the numerous adverse impacts to coastal resources caused by shoreline protective devices (discussed above), which are relevant to this project, to comply with section 30253’s prohibition on creating or significantly contributing to erosion and destruction of the site, it must be clear that, as new development, the development approved by this permit is not entitled to a shoreline protection device now or in the future. Therefore, **Special Condition 2** is imposed to require the applicant to acknowledge that, as new development, the applicant has no right to a shoreline protective device for the project.

Removal if Development is Threatened
Given that coastal hazards may impact the proposed development to some extent during its economic life as a result of sea level rise, the Commission must also find that the project assures stability and structural integrity and minimizes “risks to life and property” in an area of high flood hazard without a shoreline protective device. Section 30253 does not prohibit development in a potentially hazardous area; rather, an applicant must demonstrate that risks to life and property are minimized. Here, it is important to note that the site is not currently threatened by coastal hazards and is unlikely to be for many years and has been designed to be stable and structurally sound under current conditions.

However, as discussed, the best available science indicates that sea level rise is occurring and coastal hazards may threaten the project site to some extent towards the end of its economic life, although there are uncertainties inherent in predicting exactly how and when the impacts discussed above will occur. Due to increasing coastal hazards in this area, the proposed development may become unstable at some point, posing risks to property and even life, and a shoreline protective device would not be an option for protecting the structure from coastal hazards. If, however, the subject development was to be removed if threatened, rather than protected by a shoreline protection device, the proposed development may be found to be consistent with the Coastal Act hazards policies, because the structurally unsound or unsafe development would be removed from the hazardous area effectively minimizing risks to property and life.

Therefore, the Commission imposes **Special Condition 2**, which requires the landowner to remove the development authorized by the permit if the City of Santa Monica or any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to coastal hazards and that there are no

measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices.

Special Condition 2 requires that if any part of the proposed development fails and falls to the beach due to coastal hazards, then that portion of the development must be removed. This condition recognizes that predictions of the future cannot be made with certainty, thereby allowing for development that is currently safe and expected to be for most of its economic life, but ensuring that the future risks of property damage or loss arising from sea level rise or other changed circumstances are borne by the applicant enjoying the benefits of new development, and not the public.

Because of the potential for loss of beach area (and associated public access and recreational resources) as sea levels continue to rise, this project also must be considered in light of sea level rise adaptation actions that may become necessary over time. The City of Santa Monica has developed draft sea level rise adaptation strategies in the LUP update, which includes policies with specific trigger points of coastal hazards and associated actions that must be taken by the local government and a property owner in order to protect life and property and to maintain public access, and could trigger removal or relocation of potentially threatened development and thus allow the beach and public tidelands to naturally migrate inland consistent with the Coastal Act, if certified by the Commission. Therefore, **Special Condition 2** requires the landowner(s) to remove threatened portions of the development if required pursuant to LCP policies for sea level rise adaptation planning.

The Commission also finds that due to the possibility of storm waves, surges, flooding, erosion and other coastal hazards the applicant shall assume these risks as a condition of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's Assumption of Risk, Waiver of Liability and Indemnity, as required by **Special Condition 1**, will show that the applicant is aware of and understands the nature of the hazards which exist on the site, and that may adversely affect the stability or safety of the subject development, and will effectuate the necessary assumption of those risks by the applicant.

In addition, the Commission imposes **Special Condition 3**, which requires the applicant to record a deed restriction on the property, acknowledging the risks inherent in undertaking development in this dynamic area and acknowledging that the degree of future risk cannot be known with certainty today. Additionally, **Special Condition 3** imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser and any future owners of the site with recorded notice that the restrictions are imposed on the subject property. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with the hazards and shoreline development policies of the Coastal Act.

Conclusion

The proposed development, as conditioned, can be found to be consistent with Section 30253 of the Coastal Act, which requires that risks to life and property be minimized, that

stability and structural integrity are assured, and that proposed development neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. Approval of the project, as conditioned, also is consistent with the Commission's obligation to manage and protect public trust resources.

C. PUBLIC ACCESS

Coastal Act Section 30210 states:

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

Coastal Act Section 30211 states:

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

Coastal Act Section 30252 states:

> The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

LUP Policy 20 states, in part:

> New development shall provide adequate parking to meet all demands created by the development. With the exception of development with the Third Street Assessment District and at the Santa Monica Pier, required off-street parking spaces shall be located on the parcel or building site...

The Coastal Act prioritizes the protection of public access to the coast and, in Section 30252, specifically identifies adequate parking as an important component of new development. The Coastal Commission enforces minimum onsite parking standards for new development in order to protect public beach parking for members of the public who

wish to access the coast. Past Commission action has required new multi-family residential developments to provide two spaces per residential unit, plus one additional guest parking space for every three units.

The proposed project will provide a total of 56 parking spaces within a partial subterranean parking garage. The applicant proposes thirty-nine spaces for the 22 residential units, four for residential guest spaces, and thirteen spaces for the visitor-serving commercial use. In total, the project proposes 43 spaces for the residential units. The proposed parking is largely consistent with past Commission action. In the past the Commission has required 2 parking spaces per residential unit, which would be 44 spaces total for the 22 units. In this case, they propose 43 spaces for the residential units (including 4 guest spaces), which, is short only one parking space. The overall parking proposed will provide nearly enough spaces for the 22 units, without necessarily providing any guest parking spaces.

Additionally, in the past the Commission has required projects for commercial development to provide onsite parking based on the square footage of the commercial space and based on the use of the commercial space (restaurant, retail, etc.). Compared to past Commission findings regarding parking for commercial uses, the total required number of spaces for the restaurant service area (including the patio) would be approximately 18 spaces and the market would require approximately 6 spaces. In total, the commercial uses would need 24 parking spaces to meet the demand. The project proposes only 13 spaces for the commercial use, as such, the project does not provide sufficient parking to meet the demand generally expected for the proposed commercial aspects of the project, and is short approximately 11 parking spaces.

The City of Santa Monica in the past few years adopted revised parking standards for new development where all off-street private parking spaces are “unbundled” (offered separately) from the dwelling units and commercial tenant spaces, in order to provide more flexibility for those who do not want or need parking. It should be noted however, that because the City requires the residential units be offered “unbundled” from the parking spaces, once the building is occupied it is possible that not all 43 spaces will be used by the residents. Spaces that are not occupied by the residents can and should be able to serve the commercial uses onsite. That is a unique advantage of mixed-use buildings and having shared parking arrangements.

Recent data gathered by the City of Santa Monica indicates that the average unit in this area only needs about 1.15 vehicles per unit, indicating that most residents do not own 2 vehicles[8]. As such, if each of the residential units only used one parking space, there would be a surplus of as many as 22 spaces onsite that could serve the commercial uses on the ground floor. It is possible that the parking demand for the residential units may not be as high as past Commission action has anticipated and required (2 spaces per residential unit), and Commission staff understands that there may not be a demand for 2 parking spaces per unit at this time, but also cannot predict what type of residential parking may be needed in the future.

[8] The 2013 Nelson Nygaard Parking Zoning Ordinance Draft Update

In contrast to past Commission findings regarding parking requirements for commercial uses (which indicate the project could need 24 spaces), the applicant has provided a parking study by LLG which indicates that “there have been significant changes with respect to services, infrastructure, as well as local government policies and mandates which have substantially reduced the need for a personal automobile, and thus, the number of parking spaces required for development projects.”

LLG includes various parking demand considerations in the parking analysis. For example, LLG states the project sites are served well by local public transit, enhanced infrastructure and policy for bicyclists, shared ride services (e.g. Uber and Lyft), increased density to facilitate walking trips, Santa Monica Transportation Demand Management plans, mixed-use projects and provisions for affordable housing.

The project site is served by new bicycle infrastructure and development requirements of the City that now mandate on-site bicycle parking for residents and visitors. For example, Ocean Avenue, Main Street and Colorado Avenue have dedicated bike lanes. Additionally, Santa Monica has local bike share programs that offer bike rentals and a “bike hub” located at Ocean Avenue and Bay Street.

Increased development and density in the area allows for walking trips to complete local errands without a car as well as seek nearby employment. The project lies within walking distance of various employers such as the Rand Corporation, the Santa Monica Civic Center, as well as shopping and dining options along Main Street and within Downtown Santa Monica. The commercial uses will attract a majority of walk-in visitors from those who live and work in the area. Additionally, parking need will be further reduced with the provisions to Santa Monica’s Zoning Code to require ground floor commercial in mixed-use developments.

The City of Santa Monica operates several beach parking lots that are open to the public at affordable parking rates. Visitors to the beach and the oceanfront area use those parking facilities and then patron the surrounding visitor serving uses, consistent with the City’s “park-once” principal and supporting infrastructure. In past Commission actions in this area of Santa Monica, the Commission has approved projects that are visitor serving to have limited or reduced parking because the uses are adjacent to the public pier and are considered ancillary uses to the pier. In this case, the ground floor commercial will contain a market and a restaurant, both of which will be pedestrian-oriented commercial. Visitors to the area on the beach or walking along Ocean Front Walk will be able to access these storefronts without utilizing any onsite parking. Residents of the subject building and the neighborhood also will access these businesses without using parking. These uses will be ancillary to the beach and to Ocean Front Walk and will not necessarily require their own parking supply. Similar to past Commission findings regarding uses ancillary to the Santa Monica Pier, the beach and the public walkway is the destination and the surrounding commercial uses, such as proposed here, are supportive of the public coastal amenity, but are not themselves, individually or collectively, the destination. Consistent with past Commission actions, the reduced parking supply proposed for the commercial uses onsite is consistent with Section 30252 because it provides alternative means to access the proposed uses.

In order to decrease the demand for the proposed onsite parking spaces for both commercial and residential uses, the applicant proposes a robust Transportation Demand Management Plan, which will include a public transit fare reimbursement for employees of the commercial space, providing free and secure bike parking, and lower rent for residents without a car. However, to ensure that the development will continue to incorporate the TDM program to reduce parking and traffic so that parking generated by the development will not adversely impact public parking in the surrounding area, **Special Condition 11**, requiring the implementation and monitoring of the TDM program, is necessary.

Public transportation options are readily available within the project vicinity. The project site is located 0.2 miles (or a 4-minute walk) away from the Big Blue Bus and Metro bus stations located at Ocean Avenue/Pico Blvd. and Main Street/Pico Blvd. respectively. Additionally, the applicant proposes to provide 47 bike parking spaces. Thirty-nine spaces will be reserved for residential use and eight will be for the visitor-serving commercial use. Residents and visitors can also easily bike or take ride-sharing services (i.e. Uber, Lyft). Metro's Expo Line is also located just 0.8 miles away from the project site, at 4th Street and Colorado Avenue. The Expo Line facilitates transportation to Downtown Los Angeles without the need for a car. Overall, the project is sited in an area where alternate forms of transportation are readily available for residents to access Downtown Santa Monica and other destinations in the greater Los Angeles Area.

Specifically, Section 30252 (1) of the Coastal Act requires that the location and amount of new development should maintain and enhance public access to the coast by facilitating the provision or extension of transit service. The development itself cannot control the surrounding transit services, however the TDMs proposed do provide incentives for the residents and visitors of the development to use the existing public transit systems nearby. Similarly, Section 30252 (2) requires that commercial facilities are provided within or adjoining residential development or in other areas that will minimize the use of coastal access roads. The proposed development conforms to that standard as a mixed-use development with residential and commercial components. Lastly, Section 30252 (4) of the Coastal Act requires new development to provide adequate parking facilities **or** provide substitute means of serving the development with public transportation. The City of Santa Monica has a uniquely robust public transit system used by both residents and visitors alike. The proposed development, as explained above, is adequately served by existing public transit infrastructure of the area and therefore, even though the project does not provide sufficient onsite parking for the commercial uses, the proposed project is still consistent with Section 30252 of the Coastal Act.

The subject site is adjacent to the public beach and is not proposing to provide any public parking opportunities for beach visitors. If the proposed project proves to be under-parked, there is a possibility that the residents and commercial visitors could park on public streets and displace public parking spaces for beach visitors. However, the City of Santa Monica has several beach parking lots that provide public parking for coastal visitors, one of the largest of which is near the subject site. Additionally, visitors to the area that patronize the downtown businesses of Santa Monica park in the municipal parking structures and do not usually occupy public paces spaces on the streets. As such, the project as proposed and

as conditioned will not have any negative impacts to public access to the coast, including impacts on the ability of the public to access public parking options while visiting the coast.

There are two other mixed-use Santa Monica projects (Application Nos. 5-19-0983 and 5-94-172-A1) on the Commission's July 2020 agenda in addition to the proposed mixed-use development. All three projects have a parking analysis that recommend a reduced parking amount, when compared to past Commission action. The Commission can and should consider if there is a potential cumulative impact to public access in Santa Monica. Based on the parking studies provided by the applicants and based on data provided by the City of Santa Monica, the three projects will be adequately supported by parking resources available onsite and will include other measures and provisions to satisfy parking demand, including providing incentives for visitors and residents to rely on the existing unique robust public transit system already operating in the City of Santa Monica (including bus and rail) and the alternative transit options in which the City has invested over the years including the bike share program, the electric scooter stations, and the general walkability of the City's Coastal Zone complete with pedestrian-oriented uses on the ground floor, wide sidewalks, a complete segment of the Coastal Trail, and pedestrian overpasses leading from Ocean Blvd down to the shoreline. The proposed projects have been designed with this City-scape in mind and based on those factors which reduce overall demand, provide sufficient parking onsite to meet the expected demand. Overall, considering the cumulative impacts, the proposed projects are not anticipated to impair public access to the coast.

To maintain adequate commercial and residential parking and ensure that public parking would not be adversely impacted, **Special Condition 6** requires that any future improvements such as a change in the proposed vehicle and bike parking shall be submitted to the Executive Director to determine if an amendment to the permit is legally required. **Special Condition 13** imposes a signage plan informing the public of the commercial visitor parking and to ensure maximum public access. Lastly, **Special Condition 10** imposes that construction staging and the construction corridor protect and maximize public access.

Public Access and Adaptation Measures

The applicant has submitted temporary and long-term adaptation measures to counter storm events. One of the measures proposed includes installing self-closing flood barriers on Ocean Front Walk to protect the property in the event of episodic flooding. The portion of Ocean Front Walk that falls within the property line is granted as a nonexclusive public easement. As such, the Commission does not permit any encroachments on public walkways for private uses or to protect the private development. In efforts to protect public access, the Commission would recommend temporary approaches (e.g. sand bags) to adaptation that protect the property and public access. However, should anticipated threats due to sea level rise and erosion require permanent actions, improvements to access amenities in the public easement area must retain their continuity and/or utility and ensure maximum public access. Therefore, pursuant to **Special Condition 16**, any temporary or permanent adaptation measures (e.g. modifications to the structure or public easement) shall be submitted to the Executive Director to determine if an amendment to the permit is

legally required, and will ensure that the proposed project is consistent with public access sections 30210 and 30211.

Therefore, the project as conditioned would not adversely impact public access, and the Commission finds that the proposed development is consistent with the public access sections of the Coastal Act.

D. DEVELOPMENT

Section 30230 of the Coastal Act states:

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

Coastal Act Section 30250(a) states, in part:

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

Coastal Act Section 30251

> Scenic and visual qualities. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Coastal Act Section 30253 states, in part:

> New development shall do all of the following:
>
> (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
> (d) Minimize energy consumption and vehicle miles traveled.

Coastal Act Section 30604 states, in relevant part:

> (f) The commission shall encourage housing opportunities for persons of low and moderate income. In reviewing residential development applications for low- and moderate-income housing, as defined in paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code, the issuing agency or the commission, on appeal, may not require measures that reduce residential densities below the density sought by an applicant if the density sought is within the permitted density or range of density established by local zoning plus the additional density permitted under Section 65915 of the Government Code, unless the issuing agency or the commission on appeal makes a finding, based on substantial evidence in the record, that the density sought by the applicant cannot feasibly be accommodated on the site in a manner that is in conformity with Chapter 3 (commencing with Section 30200) or the certified local coastal program.
>
> (g) The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

Policy 4 of the LUP states:

> The City of Santa Monica LUP shall encourage the preservation of low and moderate income housing within the Coastal Zone consistent with the Coastal Act policies, contained herein.

Housing Density

Section 30250 of the Coastal Act requires new development to be concentrated in existing developed areas where it can be accommodated without adverse impacts to coastal resources. Section 30253(d) requires new development to minimize energy consumption and vehicle miles traveled. Concentrating development in existing developed areas provides more opportunities for people to live near places they work and recreate, such as the beach, and, thereby, reduces impacts to coastal resources. Impacts to roads and vehicle miles traveled would be reduced by having a more intense stock of housing located closer to employment and recreational opportunities within the coastal zone. Also, by having a higher density in an existing developed area, it places more people in a single location so that public transit service is facilitated, which then again aids in reducing the number of cars on streets and thus reduces impacts to coastal resources and public access. Siting dense development in urbanized areas reduces urban sprawl, and furthermore reduces the pressure to extend development into adjacent undeveloped areas, which may contain sensitive coastal resources.

The subject site is located at 1921 Ocean Front Walk, which according to the 1992 Santa Monica LUP and draft LUP Update, is the inland border of the South Beach subarea of Santa Monica's coastal zone. South Beach is predominantly used for parks, open space, public access to beach parking spaces and restroom facilities with the only private development including the project site and Hotel Casa Del Mar. However, within a half-mile

of the site are hotel accommodations, restaurants, public transit, medium to high density residential buildings, parks, public beaches and public parking. The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. The site is currently supplied by adequate public services and would not require the construction of any new infrastructure.

Section 30250 of the Coastal Act requires new development to be concentrated in existing developed areas where it can be accommodated without adverse effects either individually or cumulatively to coastal resources. An important consideration in the subject proposal is the project's contribution to housing density, in combination with similar projects in this area, and the cumulative addition to the supply of housing within the City of Santa Monica. Commission staff has consulted with the City to explore whether there are any broader trends regarding housing density in Santa Monica's Coastal Zone. The City provided housing data from between 2009 and 2018, which demonstrates that, during the past roughly ten years, 182 units were constructed in the Coastal Zone and 145 units were removed from the Coastal Zone, resulting in a net gain of 37 units in the 10-year period. Similarly, Coastal Development Permits issued by the Commission reflect this trend over the past 6-12 years and show that the number of units constructed exceeds the number of units demolished. This trend of increasing housing stock within the Coastal Zone has been sustained over at least the past decade and, due to policies at the local level, seems likely to continue in the future.

The project site is located in an area designated by the 1992 LUP as high-density housing, although this particular area is within the Beach Overlay District and is currently an area of deferred certification. The LUP provides policies and background information that can be used as guidance while the standard of review is the Coastal Act. The City of Santa Monica is in the process of updating the LUP and has published a draft. The draft LUP indicates that the project site is designated for Oceanfront land uses, which allow for beach clubs, public facilities, recreation-uses, public uses, lodging, restaurants, shopping, commercial recreation, and residential uses. Therefore, the mixed-use development is suitable for the land use designation as outlined in the draft LUP, and therefore approval of the project would not prejudice the certification of the draft LUP.

The 1992 LUP designates a limited area of the Coastal Zone for high-density housing: the inland side of Ocean Front Walk up to approximately Ocean Avenue bounded by Bay Street and Pico Blvd. is the only location for high-density housing located in the Coastal Zone Sub-Area 1c (Santa Monica State Beach), i.e., the location of the proposed development. Inland of Coastal Zone Sub-Area 1c is the Coastal Zone Sub-Area 8 (Ocean Park). Ocean Park is a residential neighborhood with limited land designated for high-density, which can only be located in two locations in the coastal zone: between Nielson Way and the public beach south of Ocean Park, and a small neighborhood inland of the Civic Center along Pico Boulevard. In between Montana Avenue and Downtown Santa Monica are several blocks of land designated for medium-density housing. Housing located in Downtown Santa Monica is within and immediately adjacent to areas designated for visitor-serving and/or commercial uses. Because the amount of land designated for high-density residential is extremely limited in the Coastal Zone, it is important to site and maintain high-density development where it is appropriate, such as the project site.

The following table outlines the development standards of low-density, medium-density, and high-density development, as outlined in the 1992 Santa Monica LUP:

Land Use Designation	**Development Standard**
Low-Density	1 unit/1,500 sq. ft.
Medium-Density	1 unit/1,250 sq. ft.
High-Density	1 unit/900 sq. ft.

As stated earlier, the subject lot is appropriate for high-density residential in the 1992 certified LUP. According to the certified LUP, development located within the high-density residential zone is limited to 1 unit per 900 sq. ft. of lot size. With a lot size of 23, 258 sq. ft., the subject lot could support a maximum of 25.84 units. The proposed 22-unit apartment complex is consistent with a high-density development, which would allow a maximum of 25.84 units on a 23,258 sq. ft. lot. Although the proposed development represents a slight underutilization of the lot, meaning the lot could legally maintain more units than currently proposed, the proposed 22-units does maintain a high-level of development as compared to the medium-density development threshold of 18.6 residential units. Additionally, because the project site is adjacent to the public beach and the public walkway, the ground floor of the development is devoted to visitor serving commercial and pedestrian oriented uses, also identified as a priority for the area according to the LUP. Furthermore, the draft LUP Update sets the maximum allowable density limits for the South Beach subarea as 2.25 floor area ratio (FAR). Using this methodology, the mixed-use development must not exceed such development standards. The proposed project has a gross floor area of 34,750 square feet and lot size of 23,258 square feet, and as a result, the proposed FAR is 1.49. As such, the proposed FAR does not exceed the maximum density allowed. Therefore, the project is consistent with the density requirements of the LUP and consistent with Section 30250 of the Coastal Act.

Affordable Housing

It is important to note that the Coastal Act does not authorize the Commission to require low-cost housing in the Coastal Zone. That authority was removed by the Legislature, and a separate statute, the Mello Act (Government Code Section 65590), establishes requirements for affordable housing in the Coastal Zone that apply to local governments, not the Commission. The Coastal Act makes clear that the Commission "is not authorized to review a local government's application" of the requirements of the Mello Act. (Pub. Resources Code § 30011). Instead, Sections 30604(f) and (g) of the Coastal Act direct the Commission to *encourage* housing opportunities for persons of low and moderate income in the Coastal Zone.

The City of Santa Monica has adopted an Affordable Housing Production Program to require the provision of affordable units with new housing projects in the City. According to the Planning Commission Statement of Official Action, "the project is subject to the City's

Affordable Housing Production Program which requires the proposed 22-unit housing project to provide one of the following: 1) five percent of the total units of the project for 30% income households, 2) ten percent of the total units of the project for 50% income households, or 3) twenty percent of the total units of the project for 80% income households. Pursuant to SMMC Section 9.23.030(A)(1), the applicant is required to provide at least 50% more affordable housing units than would be required pursuant to Section 9.64.050. The applicant has elected to provide ten percent of the total units of the project for 50% income households. Additionally, in a Tier 2 project, the applicant will be providing a community benefit for 50% over the amount required."

As a result, the applicant proposes four offsite deed-restricted affordable units at a companion site located at 1828 Ocean Ave (see CDP 5-19-0984). The companion site proposes an additional 12 deed-restricted affordable units to meet Santa Monica's Affordable Housing Production requirements for the inland site. The combined total among the two project sites is 16 affordable units for very-low (50%) income households, which will be restricted for a minimum of 55 years. Pursuant to the staff recommendation for the project at 1828 Ocean Avenue, the applicant for that project would be required to record a deed restriction requiring that the16 affordable units will be maintained as affordable units for the life of the development in order to ensure that the parking demands for the proposed development are met and to protect public access.

Although affordable housing will not be constructed as part of this proposed project, affordable units will be provided at a nearby location as part of a separate mixed-use project pending before the Commission, in order for both projects to meet the City's affordable housing requirements. Given the Commission's limited authority to regulate or require affordable housing, the proposed project is consistent with section 30604(f) and (g) of the Coastal Act.

Visual Resources and Community Character

The Final EIR includes a conformance review report from Chattel, Inc to evaluate the design and architecture of the building and determine its compatibility with the surrounding historic structures. Immediately adjacent to the proposed project is Hotel Casa Del Mar, a nationally registered Historic Place, as well as located across from Crescent Bay Park, a potentially eligible City Landmark. As such, both Casa Del Mar and Crescent Bay Park are considered historical resources under the California Environmental Quality Act (CEQA).

The Chattel conformance review, dated March 20, 2019, concludes that "the described refinements to setbacks, massing and overall form, materials, architectural cues, windows, and landscaping strengthen compatibility of the proposed project with Casa Del Mar and Crescent Bay Park, and further mitigate any potential historical resource impacts to less than significant levels...The proposed project, according to the study, responds well to its key location at the southern end of the beachside boardwalk and continues to sustain prominence of Casa Del Mar while supporting the historic character of Crescent Bay Park and Ocean Front Walk."

Additionally, the proposed mixed-use development is consistent with the visitor-serving commercial character of the surrounding area. One block away, on Ocean Ave., are several similar mixed-use buildings with ground floor commercial and residential above.

The Final Environmental Impact Report states that “while the Ocean Front Walk Project would diminish the field of coastal views from limited segments along Bay Street and areas of Crescent Bay Park, the primary westerly view corridor down Bay Street and coastal views from the Crescent Bay Park would not be substantially affected. Overall, the Ocean Front Walk Project would not have a substantial adverse effect on coastal views from public vantage points in the area”. In this case, the project can still be found consistent with the Coastal Act, which requires that new development protect views and be visually compatible with the character of the surrounding area.

Bird Strike
Building design along the beachfront could have an adverse impact upon a variety of bird species. Birds are known to strike glass walls causing their death or stunning them which exposes them to predation. Some authors report that such birds strikes cause between 100 million to 1 billion bird deaths per year in North America alone. Birds strike the glass because they either don't see the glass or there is some type of reflection in the glass which attracts them (such as the reflection of bushes or trees that the bird might use for habitat). As a special condition of this permit, **Special Condition 9**, the applicant is required to use materials designed to prevent creation of a bird strike hazard.

Electric Vehicle Charing
The applicant proposes to include 6 electric vehicle parking spaces of the 56 parking spaces. In total, 2 electric vehicle charging stations will be provided and 4 additional spaces will be EV capable. The applicant proposes to place 3 EV spaces on each floor of the garage. The EV spaces will accommodate compact, standard and ADA sizes. Per **Special Condition 15**, the 6 electric vehicle parking spaces must be maintained throughout the life of the development.

In sum, approval of the project, as conditioned, is consistent with Sections 30250 and 30253 for siting new development where appropriate and adhering to density development standards as outlined in the LUP. The proposed project is consistent with Section 30604 as it encourages affordable housing opportunities and lastly, is consistent with section 30251 as the proposed development does not visually impact scenic views and local community character. The proposed project is also consistent with Section 30230 to protect bird species from hazards caused by development.

E. WATER QUALITY

Section 30230 of the Coastal Act states:

> Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a

> manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

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

Section 30232 of the Coastal Act states:

> Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Construction Impacts to Water Quality

The above policies of the Coastal Act require protection of marine resources, including the protection of coastal waters, by controlling runoff and preventing spillage of hazardous materials. Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, the Commission imposes **Special Condition 5**, which outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. This condition requires the applicant to remove any and all debris resulting from construction activities within 24 hours of completion of the project. In addition, all construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

The proposed project includes construction of a partial subterranean parking garage. As discussed in the Hazards findings above, the historical groundwater level is 10 feet below grade or +8 feet NAVD88. The project plans show that the finished floor of the proposed garage is located near +11 feet NAVD88. The applicant's engineering report states that "foundation, elevator pit, and utility trench excavations may extend into groundwater and therefore would require localized dewatering during construction. Dewatering will also

likely be required to remove the upper portion of the former pump station walls remaining at the site." Given that construction will take place within the water table, excess water is likely to need to be disposed of during construction activities. Improper treatment and disposal of such water could have adverse impacts on coastal resources; therefore, the Commission imposes **Special Condition 5**, which outlines construction-related water quality requirements to prevent runoff and dewatering operations from draining toward the beach and ensure all materials be managed to prevent pollutants from entering the beach area. Additionally, "where the subterranean levels, pits, and vaults extend below the design groundwater elevation, we recommend the subterranean levels and structures be water-proofed and designed to resist the hydrostatic pressures imposed on the floor slab and walls." The applicant has indicated that the garage will be waterproof. In addition, as conditioned by the City through Condition 68, a permit is required from the City Water Resources Protection Program (WRPP) for any temporary construction dewatering or permanent groundwater seepage pumping. **Special Condition 7** requires the project to adhere to the conditions of local approvals.

Post-Construction Impacts to Water Quality

The proposed project has the potential to adversely impact the water quality of the nearby Pacific Ocean. Much of the pollutants entering the ocean come from land-based development. The Commission finds that it is necessary to minimize to the extent feasible within its jurisdiction the cumulative adverse impacts on water quality resulting from incremental increases in impervious surface associated with additional development. Santa Monica Bay is considered an impaired water body. The City of Santa Monica is required to implement storm water runoff controls for new development, to minimize the footprint of impervious areas, and to use Low Impact Development strategies. Projects should be designed to capture and retain, infiltrate, or treat runoff. The City's Public Works Dept. advises against infiltration on sites west of 4th street, which limits the treatment options for this site.

In order to deal with these post construction water quality impacts, the proposed project will mitigate storm water and surface runoff from the project site by paying an in-lieu fee to the city of Santa Monica. By complying with applicable regulations, the project would improve existing hydrology and water quality conditions at the site. Specifically, the fees would be used for off-setting drainage effects at other locations.

The City of Santa Monica has made significant improvements to the collection and treatment of storm water by developing the SMURRF (Santa Monica Urban Runoff Recycling Facility). When storm water is collected, treated and recycled on a municipal level, it can be more effective than the individual site treatment methods of infiltration, retention, or treatment.

The applicant has stated that landscaping will consist of California native and water-wise landscaping. While the proposed landscaping consists of non-invasive and drought tolerant plants, future landscaping may not consist of such plants. For water conservation, any plants in the landscape plan should only be drought tolerant to minimize the use of

water. Additionally, using pesticides and herbicides adjacent to the beach leaves a potential for water quality impacts to the nearby ocean.

In order to make sure that any onsite landscaping minimizes the use of water and the spread of invasive vegetation and to ensure water quality standards are adhered to, the Commission imposes **Special Condition 4**, which imposes landscape controls that require that all vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive and that no herbicides or pesticides are used on the subject site.

Thus, as conditioned, the Commission finds that the proposed project is consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

F. CULTURAL RESOURCES

Section 30244 of the Coastal Act states:

> Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

As described above, the project proposes a grading depth of 31 feet and cut of 5,435 cubic yards of soil. In order to stabilize the subject site prior to construction, the applicant proposes to undertake compaction grouting which involves injections of grout into the soil that expands.

The Final EIR evaluates project impacts to archaeological, paleontological and tribal cultural resources. Project grading and excavation may directly or indirectly destroy unique paleontological resources or sites. Although unlikely, project grading and excavation may encounter buried human remains.

Development at the Ocean Front Walk site has a high potential of encountering archeological resources, however the EIR notes that these would be historic (not pre-historic or affiliated with tribal groups). The EIR indicates there would be no impact to tribal resources, but at the same time acknowledges there could be currently unknown archeological resources underground. Were the developers during ground disturbance to discover an archeological resource that was tribally affiliated, it could have a negative impact to tribal resources. Tribal resources can be identified as Sacred Lands (whether documented with the NAHC or not) or tribal resources can be identified as archeological deposits that are prehistoric from the tribe.

According to the Final EIR, section 4.5.2.4, the City of Santa Monica sent letters to 12 Native American individuals and organizations on the AB 52 Notification list. The City received a letter from Andrew Salas, Chairman of the Gabrieleno Band of Mission Indians – Kizh Nation in January 2017. Mr. Salas indicated concern for cultural resources due to the high sensitivity of the area location and requested a certified Native American monitor

be present during ground disturbance at the project sites and requested to engage in consultation with the City. The City responded in March 2017 requesting Mr. Salas to demonstrate that the sites are located in a high-sensitivity area for tribal cultural resources. The City did not receive another response from Mr. Salas or any other tribal group. As a result, no tribal cultural resources have been identified within the project site or vicinity.

It appears that the tribal consultation conducted for the EIR did not result in an actual consultation or a meeting between the tribal government and the City government, but rather that there was some preliminary communication via email. Mr. Andy Salas, chairman of the Kitz Nation, sent a letter indicating that the location of the projects are sensitive to tribal resources and offered to share written and oral history concerning the location of the prehistoric villages, trade routes, and religious and ceremonial sites within the project area, and requested a consultation via phone or in person. The emailed response the City provided asked the tribal government to disclose the presence of sensitive cultural resources via email. The City indicated that the disclosure would assist the City in determining if Native American monitors are necessary onsite, which is generally not consistent with the requirement to develop appropriate measures in coordination with tribal governments.

In response to the lack of consultation documented in the EIR, the NAHC responded to the City noting that appropriate government-to-government consultation had not occurred as required by statue AB-52 (despite it being requested in the letter from Mr. Andy Salas in person or via phone) and noted that there appeared to be no appropriate mitigation measures developed in consultation with the tribe. The NAHC critiqued the EIR for the lack of appropriate mitigation measures for tribal resources as separate and distinct from archeological resources (which may or may not be tribally affiliated) and provided sample mitigation measures. Lastly, the NAHC responded that a lack of identified tribal cultural resources onsite does not mean there will be no impacts.

The EIR recommends that an archeologist be present during ground disturbance and if any tribal resources are found, the work will be halted and a representative of the tribal government with documented ties to the area will be called in to review the resources and develop a treatment plan.

The proposed site has been disturbed in the past. The EIR did not identify any prehistoric resources within ½ mile, however past Commission applications for this area contain information regarding the presence of cultural resources near the project site and past Commission findings indicate that there could be a potential for resources in this area (applications for nearby sites include CDP No. 5-01-196 (Rand Corporation), CDP No. 5-09-040 (Ocean Avenue Management LLC), and various projects at the Civic Center (e.g. CDP No. 5-19-0017). The Commission has consistently conditioned projects with ground excavation and significant grading in Santa Monica to include Native American monitors during ground disturbance. The EIR states that the potential for prehistoric archaeological resources may be small due past development of the site. However, there is the possibility of a deeply buried site being uncovered during excavation.

In order to better understand the cultural significance of the project site and the surrounding project area, Commission staff underwent tribal consultation, consistent with the Coastal Commission's Tribal Consultation Policy. First, Commission staff wrote to the Native American Heritage Commission (NAHC) to request a Sacred Lands File Check for the project site. The NAHC indicated that no known cultural records were available for the project site in the Sacred Lands File but encouraged staff to reach out to local Native American tribes who would have a more detailed understanding of the cultural resources in the area. Staff reached out to the tribal organizations to request consultation.

On May 11, Commission staff underwent a phone tribal consultation with Jario Avila, the Tribal Historic and Cultural Preservation Officer of the Fernandeno Tataviam Band of Mission Indians for the subject application and for the 5-19-0983 application. Mr. Avila indicated that the project site is not within the ancestral territory of his tribe, however he indicated that there were concerns with the EIR and the mitigation measures proposed in the EIR were not adequate. He recommended that in the event of a discovery, the developers should retain a representative from the Gabrieleno tribe and that a Native American monitor should be present during grading. Mr. Avila also mentioned that the mitigation measures in the EIR which allow for the resources found on site to be recovered and donated to a museum of a school is not appropriate for tribal cultural resources, and the treatment decision should be left to the tribe. Mr. Avila also noted that there were and are resources in the area that were not properly documented in the past due to a lack of regulation for identification and protection of cultural resources during construction and grading prior to the 1970s. Countless resources that were found in the past during development were destroyed and discarded.

On June 2, Commission staff consulted with Chairman Anthony Morales of the Gabrieleno/Tongva San Gabriel Band of Mission Indians for the subject application and for the 5-19-0983 application, who indicated that the project site is located within a sensitive cultural area. Many of the tribe's villages were sited on a seasonal and permanent basis throughout the area of the project site. The Gabrieleno Tongva tribe was a maritime society that relied heavily on fish for food. Due to proximity to the ocean, the village community would often travel to the nearby islands for their catch. The project is not far from other sacred sites and the entire the Santa Monica basin is a sensitive area. Due to the project site's location and adjacent to sacred water sources, there is a potential of ground disturbance activities to impact tribal cultural resources.

The project site also has ancestral ties to the Kizh Nation, a Gabrieleno tribe. A consultation is scheduled with the Kizh Nation, to occur after publication of this staff report, and additional findings and any changes to the project as a result of that consultation will be published in an addendum to the staff report prior to the Commission hearing.

In past consultation for projects in the vicinity of the subject site, the Kizh Nation has indicated that the area is a known culturally sensitive area located near the prehistoric Sa'angna Village, one of the known mainland trading villages in the region and its surrounding trade routes, and that Tribal Cultural Resources may be present in the soil layers from the thousands of years of human activity within that landscape. On past

projects in the vicinity, the Kizh Nation has requested Native American monitors be present during all grading operations.

Because there are different Gabrieleno groups that had common ancestors, it was recommended during the consultation that both groups of the tribe have input on the treatment of any resources that may be discovered on site, even if both groups are not monitors on the day of discovery.

In past permit actions, the Commission has required applicants to monitor all grading and construction activities and required appropriate recovery and mitigation measures, regarding excavation, reporting and curation. To ensure that the project is undertaken in a manner that protects any cultural resources that may be discovered, the Commission imposes **Special Condition 12** requiring a cultural resource treatment and monitoring plan. To assure that the proposed project protects any potential cultural resources that may exist on the property, a Native American monitor shall be present along with an archaeological monitor at the site during excavation activities to monitor the work, if artifacts or remains are discovered. If a discovery is made, the condition requires that the professional archeologist call and inform each tribal group to discuss treatment options. Commission staff does not recommend the mitigation measures as outlined in the EIR, and instead conditions the project to have the affected Native American tribes in consultation with the applicant determine the treatment of the tribal cultural resource, and the preferred treatment option is preservation in-situ. Therefore, as conditioned, the proposed project is consistent with Section 30244 of the Coastal Act which requires reasonable mitigation measures be provided to offset impacts to archaeological resources.

G. LOCAL COASTAL PROGRAM (LCP)

Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, excluding the area west of Ocean Avenue and Neilson way (Beach Overlay District). On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 of the Coastal Act.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA).

The City of Santa Monica is the lead agency for California Environmental Quality Act (CEQA) purposes. The project was determined by the City to require an Environmental Impact Report (EIR). A Draft EIR was subsequently prepared in April of 2018. The EIR examined the potential impacts of the Ocean Avenue Project and Ocean Front Walk Project (Projects) in the City of Santa Monica, which was the construction of two new mixed-use housing developments on separate sites providing 105 residential units and 16 deed-restricted affordable units. Both Projects would include construction of multifamily housing units above ground-floor commercial uses with partially subterranean parking.

The following key environmental issues were evaluated in the EIR: increased traffic congestion, parking, and impacts to circulation; massing of the buildings: size, density, height and setback compatibility; neighborhood compatibility and preservation of community character; calculation of FAR with regard to the public right-of-way at the Ocean Front Walk Site; relationship of the Projects to historic resources adjacent to their respective Project Sites (Hotel Casa Del Mar and Seaview and potential Seaview and Vicente Terrace District); construction effects (construction traffic, noise and vibration, and air quality).

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

Appendix A - Substantive File Documents

- City of Santa Monica Planning Commission Approval, December 5, 2018
- GeoSoils, Inc., October 26, 2016. Coastal Hazard Analysis. W.O. S7129
- GeoSoils, Inc., March 16, 2020. Coastal Hazard Analysis Update. W.O. S7129
- Geotechnical Professionals, Inc., August 15, 2019. Geotechnical Investigation Report. Project No. 2484.5I
- Geotechnical Professionals, Inc., October 15, 2019. Addendum to Geotechnical Investigation Report. Project No. 2484.5I
- Certified Santa Monica Land Use Plan (1992)
- Prepared by ESA for the City of Santa Monica, August 2018. 1828 Ocean Avenue and 1921 Ocean Front Walk Projects Final EIR. SCH No. 2016021033
- CDP Application 5-19-0984
- CDP Nos. 5-01-196 (Cultural Resources Reference); 5-09-040 (Cultural Resources Reference); 5-19-0017 (Cultural Resources Reference)
- Linscott, Law & Greenspan, Engineers (LLG), October 16, 2019. Parking Demand Study for the Proposed Mixed-Use Projects at 1828 Ocean Avenue and 1921 Ocean Front Walk. LLG Ref 5-16-0273-1.
- Nelson Nygaard, January 2013. Parking Zoning Ordinance Update Draft Report.
- OPC Science Advisory Team, April 2017. Rising Seas in California: An Update on Sea-Level Rise Science.
- State of California, 2018. State of California: Sea-Level Rise Guidance 2018 Update.

APPENDIX B – CULTURAL RESOURCES SIGNIFICANCE TESTING PLAN PROCEDURES

A. An applicant seeking to recommence construction following discovery of the cultural deposits shall submit a Significance Testing Plan for the review and approval of the Executive Director. The Significance Testing Plan shall identify the testing measures that will be undertaken to determine whether the cultural deposits are significant. The Significance Testing Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), and the Most Likely Descendent (MLD) when State Law mandates identification of a MLD. The Executive Director shall make a determination regarding the adequacy of the Significance Testing Plan within 10 working days of receipt. If the Executive Director does not make such a determination within the prescribed time, the plan shall be deemed approved and implementation may proceed.
    1. If the Executive Director approves the Significance Testing Plan and determines that the Significance Testing Plan's recommended testing measures are de minimis in nature and scope, the significance testing may commence after the Executive Director informs the permittee of that determination.
    2. If the Executive Director approves the Significance Testing Plan but determines that the changes therein are not de minimis, significance testing may not recommence until after an amendment to this permit is approved by the Commission.
    3. Once the measures identified in the significance testing plan are undertaken, the permittee shall submit the results of the testing to the Executive Director for review and approval. The results shall be accompanied by the project archeologist's recommendation as to whether the findings are significant. The project archeologist's recommendation shall be made in consultation with the Native American monitors and the MLD when State Law mandates identification of a MLD. The Executive Director shall make the determination as to whether the deposits are significant based on the information available to the Executive Director. If the deposits are found to be significant, the permittee shall prepare and submit to the Executive Director a supplementary Archeological Plan in accordance with subsection B of this appendix and all other relevant subsections. If the deposits are found to be not significant, then the permittee may recommence grading in accordance with any measures outlined in the significance testing program.

B. An applicant seeking to recommence construction following a determination by the Executive Director that the cultural deposits discovered are significant shall submit a supplementary Archaeological Plan for the review and approval of the Executive Director. The supplementary Archeological Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), the Most Likely Descendent (MLD) when State Law mandates identification of a MLD, as well as others identified in the special condition. The supplementary Archeological Plan shall identify proposed investigation and mitigation measures. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Mitigation measures considered may range from in-situ preservation to recovery

and/or relocation. A good faith effort shall be made to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, capping, and placing cultural resource areas in open space. In order to protect cultural resources, any further development may only be undertaken consistent with the provisions of the Supplementary Archaeological Plan.

1. If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after the Executive Director informs the permittee of that determination.
2. If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.

C. Prior to submittal to the Executive Director, all plans required to be submitted pursuant to this special condition, except the Significance Testing Plan, shall have received review and written comment by a peer review committee convened in accordance with current professional practice that shall include qualified archeologists and representatives of Native American groups with documented ancestral ties to the area. Names and qualifications of selected peer reviewers shall be submitted for review and approval by the Executive Director. The plans submitted to the Executive Director shall incorporate the recommendations of the peer review committee. Furthermore, upon completion of the peer review process, all plans shall be submitted to the California Office of Historic Preservation (OHP) and the NAHC for their review and an opportunity to comment. The plans submitted to the Executive Director shall incorporate the recommendations of the OHP and NAHC. If the OHP and/or NAHC do not respond within 30 days of their receipt of the plan, the requirement under this permit for that entities' review and comment shall expire, unless the Executive Director extends said deadline for good cause. All plans shall be submitted for the review and approval of the Executive Director.