

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
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W9a

ADDENDUM

December 14, 2021

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM W9a, CDP NO. 5-21-0558 (MICHAELSON) FOR THE COMMISSION MEETING OF WEDNESDAY, DECEMBER 15, 2021.**

In the following changes to the staff report, Commission staff removes the public trust language from the special conditions because public trust rights were not included in the patent proceedings for Rancho La Ballona, a Mexican land grant covering this area of Venice.

Changes to Staff Report

Commission staff recommends the following corrections to the staff report dated December 1, 2021. Language to be added is shown in underlined text, and language to be deleted is identified by ~~strike-out~~.

1. **On page 6 of the staff report, the following text of Special Condition 5 shall be deleted as follows:**

Assumption of Risk, Waiver of Liability and Indemnity. By acceptance of this permit, the applicant(s) acknowledges and agrees (i) that the site may be subject to hazards from waves, erosion, storm conditions, liquefaction, flooding and sea level rise; (ii) to assume the risks to the applicant(s) and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; (v) that sea level rise could render it difficult or impossible to provide services to the site (e.g., maintenance of roadways, utilities, sewage or water systems), thereby constraining allowed uses of the site or

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~~rendering it uninhabitable; (vi) that the boundary between public land (tidelands) and private land may shift with rising seas, the structure may eventually be located on public trust lands, and the development approval does not permit encroachment onto public trust land; (vii) any future encroachment must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain, and any future encroachment would also be subject to the State Lands Commission's (or other trustee agency's) leasing approval; and (viii) that the structure may be required to be removed or relocated and the site restored if it becomes unsafe or if removal is required pursuant to the Coastal Act.~~

2. On page 6 and 7 of the staff report, the following text of Special Condition 6 shall be deleted:

~~**Development Removal.** By acceptance of this permit, the permittee agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this permit including, but not limited to, the residence, including the pool, and any other improvements if: ... The permittee shall obtain a coastal development permit for removal of approved development unless the Executive Director provides a written determination that no coastal development permit is legally required. In addition, this permit does not permit encroachment onto public trust lands and any future encroachment onto public trust lands must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain. Any future encroachment would also be subject to the State Lands Commission's (or other trustee agency's) leasing approval.~~

3. On page 14 of the staff report, the following text shall be deleted:

~~Given the risks and vulnerabilities the site faces regarding potential flood hazards, **Special Conditions 5, 6 and 7** require the applicant to assume the risks of pursuing development in a hazardous area, waive the applicant's right to install shoreline protective devices, and remove the development if deemed unsafe by a government entity. **Special Condition 5** further clarifies that development approval does not permit encroachment onto public trust lands and any future encroachment onto public trust lands must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain, and any future encroachment would also be subject to the State Lands Commission's (or other trustee agency's) leasing approval.~~