

## CALIFORNIA COASTAL COMMISSION

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# W18b

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### STAFF REPORT: REGULAR CALENDAR

**Application No.:** 5-21-0077

**Applicant:** Haig Papaian

**Agent:** Anne Blemker, McCabe & Company

**Project Location:** 425 Paseo de la Playa, Torrance, Los Angeles County (APN 7512-003-015)

**Project Description:** Request for after-the-fact approval of installation of an approximately 70- ft. long, 3-foot high retaining wall with nine 18-inch diameter caissons and approximately 840 sq. ft. concrete patio; new drainage sump pump proposed within the concrete patio to redirect runoff from the blufftop to the street; removal of an unpermitted coastal bluff-face concrete staircase, railroad tie pathway, four (4) wooden retaining walls, drainage pipes and associated rock riprap; and restoration of bluff area with native southern coastal bluff plant species is also proposed.

**Staff Recommendation:** Approval with conditions.

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### SUMMARY OF STAFF RECOMMENDATION

The applicants are requesting after-the-fact approval of the installation of a retaining wall with caissons and concrete patio constructed in approximately 2014 on the

seaward side of their existing 3,676 square foot, bluff-top, single-family residence, as well as prospective removal of a concrete staircase, railroad tie foot path, 4 wooden retaining walls, drainage pipes and associated rip rap.

In June of 2018, the applicant submitted Coastal Development Permit Application No. 5-18-0584 for an interior remodel and approximately 3,098 square foot addition to their existing 3,676 square foot two-story residence. During Commission staff's review of the application, staff became aware of unpermitted development on the bluff face of the parcel that was constructed without the benefit of a coastal development permit, which included a concrete staircase, railroad tie foot path, five retaining walls and a drainage system comprised of two polyvinyl chloride (pvc) pipes and rip rap. Commission staff notified the applicant's agent of the unpermitted development. The applicants subsequently revised their application to seek after-the-fact approval of all of the unpermitted development.

In the absence of a certified LCP, the Commission typically imposes either a minimum bluff edge setback for new development to be located 25 feet from the edge of the bluff for primary structures and minimum 10-foot setback for secondary structures (at grade patios, decks, garden walls) on stable sites, or requires conformance with structural and deck string line setbacks as drawn from adjacent structures, or requires a greater bluff edge setback based on site specific geologic studies that indicate the site may be unstable or subject to greater erosion rates. Furthermore, if a site is redeveloped or if the majority of an existing structure is redeveloped, such that it becomes new development, the structure is not entitled to maintain existing non-conforming bluff edge setbacks. Since the applicant's originally proposed project (a major remodel) would have resulted in new development, and the existing structure does not comply with the minimum 25-foot setback from the approximate +88 MSL bluff edge as designated by the applicant's engineer, Commission staff could not recommend approval of the project as proposed, which was communicated to the applicant. The applicant subsequently withdrew their application for a major remodel, and simultaneously submitted the current revised application to address the unpermitted development, which is the subject of this coastal development permit.

The primary issue raised by this project application is whether the proposed retaining wall is consistent with the coastal hazards policies of the Coastal Act. Shoreline protective devices, by their very nature, tend to conflict with Chapter 3 policies because shoreline armoring can have a variety of adverse impacts on coastal resources, including sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach. Section 30235 of the Act authorizes bluff protective devices that are otherwise inconsistent with Chapter 3 policies if necessary to protect existing structures in danger from erosion, and where impacts to shoreline sand supply have been eliminated or mitigated. Here, the existing residence was originally constructed in 1972, prior to the effective date of the Coastal Act (January 1, 1977). As an existing structure for purposes of Section 30235 of the Coastal Act, the project is eligible for coastal bluff protection because it is in danger from erosion and the retaining wall has been designed to eliminate or mitigate its adverse impacts on shoreline sand supply. Furthermore, the

proposed project alternative would be the least environmentally damaging feasible alternative consistent with Coastal Act Section 30235.

However, if the existing residence is redeveloped in the future, the new residence would not be entitled to shoreline protection under Section 30235, and the structure would need to be sited in a manner that would not depend on shoreline protection to ensure geologic stability. In addition, removal of the bluff protective device may be required if it is no longer necessary to protect the existing, pre-Coastal Act home. As such, the Commission imposes **Special Condition 8** which requires no future seaward encroachment or expansion of bluff protection.

Although the subject parcel encompasses a portion of coastal bluffs known to support Environmentally Sensitive Habitat Area (ESHA) that is potential and occupied habitat for an endangered species of butterfly endemic to the area, the Commission's ecologist has determined there is no ESHA on the subject parcel. Regardless, the applicant is proposing to restore approximately 5,227 square feet of Native Southern Coastal Bluff Scrub habitat to mitigate for the impacts caused by the construction and presence of the unpermitted staircase, foot trail, retaining walls, drainage pipes and riprap and to resolve the Coastal Act violations at issue, as described in more detail below. In order to fully resolve the violations at issue, the areal extent of the bluffs to be restored exceeds the area impacted by the violations. Restoration will involve removal of exotic vegetation and replacement with native plants including sea-cliff wild buckwheat (*Eriogonum parvifolium*), propagated from local sources to establish a native southern bluff scrub habitat suitable for the El Segundo Blue Butterfly (*Euphilotes battoides allyni*), which is currently endangered. As part of the project, the applicants propose a monitoring plan to evaluate the success of the restoration project, which is addressed in **Special Condition 2**.

The proposed development has been conditioned to assure the project is consistent with the resource protection policies of the Coastal Act. Due to updates and revisions to the proposed project during staff review and any changes to site conditions, the Commission imposes **Special Condition 1**, which requires the submittal of final plans. In addition, because the project site is on a beachfront parcel and in proximity to coastal waters, the Commission imposes construction-related requirements and best management practices under **Special Conditions 3, 4 and 5** to prevent pollution of coastal waters.

Moreover, given that the applicants have chosen to implement the project on coastal bluff property despite risks from erosion, landslides, slope instability, and earth movement, the applicants must assume the risks. Therefore, the Commission imposes **Special Conditions 8 and 9**, which require an assumption of risk. To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition 10** which requires the property owners record a deed restriction against the property, referencing all of the above special conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the property.

Thus, staff recommends that the Commission **approve** with conditions Coastal Development Permit Application No. 5-21-0077 as further discussed in this report. As conditioned herein, the project can be found consistent with Chapter 3 of the Coastal Act.

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**EXHIBITS**

Exhibit 1 – Vicinity Map/Project Location

Exhibit 2 – Unpermitted Development Removal Site Plan

Exhibit 3 – Project Plans

Exhibit 4 – Restoration Site Plan

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission approve Coastal Development Permit 5-21-0077 pursuant to the staff recommendation.

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

### Resolution:

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

## II. STANDARD CONDITIONS

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

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicant to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

1. **Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit two full sized (3 feet x 2 feet) sets of revised final plans with graphic scale to the Executive Director for review and approval. The final plans shall be in substantial conformance with the project plans submitted by email on December 16, 2020, but shall be modified to achieve compliance with this condition, including that the revised plans shall show the following required changes and clarifications to the project:

- A. **Removal of Unpermitted Development on Bluff.** Plans with the City of Torrance Approval in Concept and Geotechnical review for removal of the unpermitted concrete staircase, foot trail, unpermitted retaining walls, drainage pipes and riprap, non-native vegetation and grading plans demonstrating the limits of grading necessary to restore the bluff.

The permittees shall undertake development in accordance with the approved final plans within 90 days of issuance of this permit. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. **Final Habitat Restoration and Monitoring Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit for review and written approval of the Executive Director, a final revised habitat restoration and monitoring plan in substantial conformance with the submitted *Conceptual Restoration Plan, 425 Paseo de la Playa, Torrance, California 90277* prepared by ECORP Consulting, Inc. received via email on January 6, 2021. The revised plan shall identify the final location and size of the proposed 5,227 square foot restoration area. A biologist qualified in the preparation of plans to restore a southern coastal bluff scrub community shall prepare the revised restoration and monitoring plan. The revised restoration and monitoring plan shall at a minimum include the following:

- A. A revised plant palette for container plants and seeds that is limited to southern coastal bluff scrub species characteristic of Torrance, California coastal bluffs. The plan shall describe the size, number, and species of container plants to be used and include an exhibit/map of the container plant spacing/placement based on an understanding of the dominant and associated species of an undisturbed southern coastal bluff scrub community.

- B. Detailed description of erosion control plans and weeding and temporary irrigation schedule.
- C. Description of monitoring design plans including both qualitative (photographs) and quantitative (transects, quadrats, etc.) methods for sampling the restoration area to track restoration success.
- D. Restoration performance standards revised to be 70% cover of a southern coastal bluff community, 3% cover or less of non-native plants, and 0% cover of non-native invasive plants at the end of five years.
- E. Provisions for monitoring and remediation of the restoration site in accordance with the approved final restoration program for a period of five years or until it has been determined that the performance standards have been met or have failed to be met, whichever comes first.
- F. Provisions for submission of annual reports of monitoring results to the Executive Director for the duration of the required monitoring period. Each report shall document the condition of the restoration with photographs taken from the same fixed points in the same directions. Each report shall also include a "Performance Evaluation" section where information and results from the monitoring program are used to evaluate the status of the restoration project in relation to the performance standards. The performance monitoring period shall either be five years or three years without maintenance or remediation, whichever is longer. The final report must be prepared in conjunction with a qualified biologist. The report must evaluate whether the restoration site conforms to the goals, objectives, and performance standards set forth in the approved final restoration program.
- G. If the final report indicates that the restoration project has been unsuccessful, in part, or in whole, based on the approved performance standards, the applicant shall submit within 90 days a revised or supplemental restoration program to compensate for those portions of the original program that were necessary to offset project impacts which did not meet the approved performance standards. The revised restoration program, if necessary, shall be processed as an amendment to this coastal development permit.

The permittees shall implement the habitat restoration and monitoring plan within 90 days of issuance of this permit. The permittees shall monitor and manage the restoration site in accordance with the approved restoration and monitoring plan, including any revised restoration program approved by the Commission or its staff. Any proposed changes to the approved restoration and monitoring plan shall be reported to the Executive Director. No changes to the approved restoration and monitoring plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**3. Erosion Control Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the Executive Director's review and approval, a plan for runoff and erosion control.

- A. The erosion control plan shall demonstrate that:
- (1) During construction, erosion on the site shall be controlled to avoid adverse impacts on the habitat.
  - (2) The following temporary erosion control measures shall be used during construction: sand bags, a desilting basin and silt fences.
  - (3) Following construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties, public streets, and the public beach below.
- B. The plan shall include, at a minimum, the following components:
- (1) A narrative report describing all temporary erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control.
  - (2) A site plan showing the location of all temporary erosion control measures.
  - (3) A schedule for installation and removal of the temporary erosion control measures.
  - (4) A site plan showing the location of all permanent erosion control measures.
  - (5) A schedule for installation and maintenance of the permanent erosion control measures.
- C. The permittees shall undertake development in accordance with the approved permit. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

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

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

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

The permittees shall comply with the following construction-related requirements:

- (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
- (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
- (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- (f) The permittees shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- (g) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
- (h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- (i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- (j) The discharge of any hazardous materials into any receiving waters shall be prohibited.

- (k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- (l) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity.
- (m) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

**6. Conformance with Geotechnical Recommendations.**

- A. By acceptance of this permit, the applicant agrees that: all final plans as modified and approved under Coastal Development Permit No. 5-21-0077, shall be consistent with all recommendations contained in the *Soils Investigation, Proposed Residential Development, 609 Paseo de la Playa, Torrance, California*, dated June 4, 2015 submitted by Norcal Engineering.
- B. The permittees shall undertake development in accordance with the approved permit. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- 7. Future Development.** This permit is only for the development described in Coastal Development Permit No. 5-21-0077. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-21-0077. Accordingly, any future improvements to the principal structure, patio, bluff retention device, or the slope authorized by this Coastal Development Permit No. 5-21-0077, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-21-0077 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

## 8. No Future Seaward Encroachment or Expansion of Bluff Protection and Temporary Authorization.

- A. **No Future Seaward Encroachment.** No future repair or maintenance, enhancement, reinforcement, or any other activity affecting the 70 foot long concrete retaining wall upon caissons, as approved by this permit, as described and depicted on approved, as-built plans, shall be undertaken if such activity results in any encroachment further down the bluff face of the authorized footprint of the retaining wall. Any debris, concrete, or other materials which become dislodged or fall from the retaining wall onto the beach below through weathering, erosion, settlement or other action shall be removed from the beach by the property owner. By acceptance of this Permit, the applicant waives, on behalf of itself, and all successors and assigns, any rights to such activity that may exist under applicable law.
- B. **Authorization Term.** This CDP authorizes the approved bluff protective device pursuant to the following terms:
1. **Termination.** Authorization of the approved bluff protective device terminates when the residence at 425 Paseo de la Playa is (1) redeveloped as defined below; (2) is no longer present; or (3) no longer requires the bluff protection approved by this permit, whichever occurs first. Prior to the anticipated termination of the authorization and/or in conjunction with redevelopment of the property, the permittees shall apply for a new CDP or amendment to this CDP, to remove the bluff protective device or to modify the terms of its authorization.
- C. **Redevelopment Definition.** As used in this condition, "redevelopment" means development that consists of alterations to an existing structure, including: (a) additions to an existing structure, (b) exterior and/or interior renovations, or (c) demolition or replacement of an existing home or other principal structure, or portions thereof, which results in:
1. Alteration (including demolition, renovation or replacement) of 50% or more of major structural components including exterior walls, floor structure, roof structure or foundation, or a 50% increase in gross floor area. Alterations under this definition are not additive between individual major structural components; OR
  2. Alteration (including demolition, renovation or replacement) of less than 50% of a major structural component where the proposed alteration would result in cumulative alterations exceeding 50% or more of a major structural component, taking into consideration previous alterations approved on or after the date of certification of the Coastal Act (i.e., January 1, 1977); or an alteration that constitutes less than 50% increase in floor area where the proposed alteration would result in a cumulative

addition of greater than 50% of the floor area, taking into consideration previous additions approved on or after January 1, 1977.

- C. By acceptance of this permit, the applicant agrees, on behalf of itself and all other successors and assigns, that no new bluff or shoreline protective device(s) that would substantially alter natural landforms along bluffs and cliffs shall be constructed to protect the development approved pursuant to CDP 5-21-0077 including, but not limited to, the bluff retaining wall, patio and any authorized future improvements and/or accessory structures, in the event that the development is threatened with damage or destruction from erosion, landslides, storm conditions, sea level rise or other natural coastal hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to augment, maintain and/or construct such devices that may exist under applicable law.
- D. By acceptance of this permit, the applicants further agree, on behalf of themselves and all successors and assigns, that the landowner is required to remove the development authorized by the permit if the City or any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to coastal hazards and that there are no measures that could make the structures suitable for habitation or use without the use of protective devices. The permittee shall obtain a coastal development permit for removal of approved development unless the Executive Director provides a written determination that no coastal development permit is legally required. This permit does not authorize encroachment onto public trust lands and any future encroachment onto public trust lands as a result of the migration of the public trust boundary must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain, and any future encroachment would also be subject to the State Lands Commission's (or other trustee agency's) leasing approval.
- E. If any portion of the existing blufftop development is removed, consistent with the special conditions of CDP 5-21-0077, the applicants/landowners shall have a geotechnical investigation prepared by a licensed coastal engineer and geologist, retained by the landowner(s), which addresses whether any portions of the development approved per CDP 5-21-0077 are threatened by coastal hazards. The report shall identify all those immediate or potential future measures that could stabilize the development without bluff or shoreline protective device(s), including but not limited to removal or relocation of portions of the development. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical investigation concludes that any portion of the development is

unsafe for occupancy, the permittee shall, within 90 days of submitting the investigation, apply for a coastal development permit amendment to remedy the hazard.

- F. Prior to removal/relocation, the permittee shall submit two copies of a Removal/Relocation Plan to the Executive Director for review and written approval. The Removal/Relocation Plan shall clearly describe the manner in which such development is to be removed/relocated and the affected area restored so as to protect coastal resources. In the event that portions of the development fall down the bluff before they are removed, the landowner shall remove all recoverable debris associated with the development and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

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

## IV. FINDINGS AND DECLARATIONS

### A. Project Description and Location

#### Location and Site History

The project site is located on a coastal bluff property overlooking the Pacific Ocean within an existing residential area at 425 Paseo de la Playa, City of Torrance, Los Angeles County ([Exhibit 1](#)). The site is developed with a two-story single-family residence constructed in 1972 and is the third northernmost lot of the 28 bluff top lots located between the first public road, Paseo de la Playa, and the sea. All of the 28 bluff top lots have been developed with single-family residences. The coastal bluff in this location ranges from approximately 95 feet high at the Los Angeles County Torrance Beach Park to the north of the residential lots, and gradually rises to 120 feet high near the boundary of Palos Verdes Estates. Some of the blufftop residences share a trail network down the bluff face located on private properties leading to the public beach below, Torrance Beach. Except for a few cabañas, landscaping, stairways and pathways, the bluff face remains largely undeveloped. Vertical public access to this beach is available to pedestrians via public parking lots and footpaths located at the Los Angeles County Beaches and Harbors' "Torrance Beach Park", which is approximately 185 feet to the north of the project site. There is also a vertical beach public access way and public parking area located approximately one mile to the south of the project site in Palos Verdes Estates.

#### Project Description

The applicants are seeking after-the-fact approval of a 3-foot high, 70-foot long retaining wall with nine 18-inch diameter caissons, and an approximately 840 sq. ft. concrete patio located seaward of an existing two-story 3,676 square-foot coastal bluff-top residence. They are also proposing to remove an unpermitted approximately 15-foot long concrete staircase, 250-foot long by 4-foot wide railroad tie pathway, four wooden retaining walls, and drainage system comprised of two 4-inch wide approximately 200-linear foot long polyvinylchloride (PVC) pipes, and associated granite rock riprap consisting of approximately 30 four-inch to ten-inch wide stones ([Exhibit 2](#)). The applicant is also proposing to restore approximately 5,227 square feet of the bluff with native coastal bluff scrub species to mitigate for the impacts of the unpermitted development.

To address unpermitted development on the bluff face of the property, the applicants are proposing to remove the unpermitted concrete staircase, railroad tie pathway, retaining walls, drainage pipes and riprap and to restore the bluff face with native Southern Coastal Bluff plant species ([Exhibit 3 & 4](#)). Proposed restoration of the bluff face includes a monitoring plan to measure the effectiveness and success of the restoration project. No permanent irrigation system is proposed to be installed for the site restoration; instead, a temporary aboveground irrigation system will be installed to be used for the maintenance period to augment natural precipitation.

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

## **B. Hazards**

Coastal Act section 30253 states in relevant part:

**New development shall do all of the following:**

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

Coastal Act section 30235 states in relevant part:

**Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fishkills should be phased out or upgraded where feasible.**

### **Adverse Coastal Resource Impacts Due to Shoreline Protective Devices**

The Coastal Act discourages seawalls, revetments, bluff retaining walls and other forms of hard shoreline protective devices because they generally cause significant impacts to 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.

Shoreline protective devices, by their very nature, tend to conflict with Chapter 3 policies because hard forms of shoreline armoring 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."

Accordingly, with the exception of coastal-dependent uses, Section 30235 authorizes the construction of shoreline armoring that is otherwise inconsistent with the Coastal Act only if the armoring is necessary to protect "existing structures" or public beaches in danger from erosion and where impacts of the shoreline armoring are eliminated or mitigated. Therefore, to protect core coastal resources, the Coastal Act has a series of specific criteria that must be met in order to approve a shoreline protective device. For example, shoreline protective devices compelled by Coastal Act Section 30235 must be supported by substantial evidence demonstrating: (1) there is an existing structure; (2) the existing structure is in danger from erosion; (3) shoreline-altering construction is required to protect the existing threatened structure; and (4) the required protection is designed to eliminate or mitigate its adverse impacts on shoreline sand supply. The first three criteria pertaining to Section 30235 relate to whether the proposed armoring is necessary, while the fourth criterion applies to mitigation for some of the impacts of such armoring.

Applied to this project, the proposed bluff retention device would likely be inconsistent with Coastal Act Section 30253 because it has an adverse effect on sand supply and natural landforms and changes the overall shoreline beach dynamics on and offsite, potentially resulting in loss of beach.

### **Existing Structure to be Protected**

The first Section 30235 test is whether or not a structure for which armoring is proposed as protection is considered "existing," if it existed in its current form when the Coastal Act came into effect (i.e., January 1, 1977) and hasn't been redeveloped since. Under Coastal Act Section 30235, structures in existence when the Coastal Act took effect on January 1, 1977 are potentially allowed shoreline armoring if the remaining three criteria identified above are satisfied.

In this case, the residence is the primary structure on the site, and it was originally constructed in 1972, prior to CDP requirements associated with the 1976 Coastal Act. Based on coastal development permit history and historic aerial photos, currently available information indicates that the residence has not been redeveloped since 1972; therefore, the residence is considered an existing structure for purposes of Section 30235 of the Coastal Act. Thus, the proposed project meets the first test of Section 30235 of the Coastal Act.

### **In Danger from Erosion**

The second Section 30235 test is whether the existing structure is in danger from erosion. The Coastal Act allows coastal bluff retaining walls to be installed to protect existing structures that are in danger from erosion, but it does not define the phrase “in danger.” There is a certain amount of risk involved in maintaining any development along the actively eroding California coastline that also can be directly subject to violent storms, wave attack, flooding, earthquakes, and other hazards, including at the subject location.

The project site is located on a coastal bluff top lot that has been altered by previous construction and grading. The current owner purchased the property in 1994 and has lived in the residence since 2012. Over the 18 years of owning the property, the applicant has noted several indications of instability of the home such as doors binding at the top and bottom in the rear of the house, glass panes cracking on the first-floor level near the seaward side of the house adjacent to the slope area, brick pavers moving toward the seaward slope with separation at joints, cracks in the concrete stem wall foundation and differential settlements of the lower floor measuring up to 1.5 inches in 2013. Thus, the applicant became increasingly concerned about the stability of the steep rear descending slope and the adverse effects the instability of the slope may have on the residence and the property.

To evaluate the feasibility of a retaining wall, the applicants commissioned the *Soils investigation for a Proposed Retaining Wall Development 425 Paseo de la Playa Torrance, California* by Norcal Engineering dated June 6, 2013. The applicants subsequently installed the wall to stabilize the dwelling foundation and surrounding ground areas without the benefit of a coastal development permit. To better understand the slope stability in this location, Commission staff requested more information regarding the slope stability, and Norcal Engineering submitted two addenda dated June 16, 2013<sup>1</sup> and September 13, 2019 in response to Commission staff’s incomplete application notices. The scope of the geological investigations involved two subsurface exploratory borings, specific field soil logging and sampling, laboratory soil sample tests, and engineering analyses. According to the report, the purpose of the

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<sup>1</sup> The stated date of Addendum No. 1 (June 16, 2013) was likely a typographical error, and was actually written in 2019.

investigation was to “evaluate the geotechnical conditions in the development area at the subject site and to provide recommendations for the proposed retaining wall.”

With regard to the stability of the slope, Norcal Engineering determined that the slope soils had a safety factor of less than 1.0 with a depth of saturation 3 feet or greater, and that erosion of the upper slope soils would occur during periods of heavy rains due to the steep slope, which lies at a 1.35 to 1 gradient.

This conclusion is supported by observations made by the applicant’s contractor (C. Gerber, 9/16/2020 email) in the years leading up to the installation of the retaining wall. These observations included slow downslope creep and displacement of the brick patio pavers, separation between the pavers, water intrusion around and under the pavers and soil movement away from the house foundations. According to the contractor, the foundations of the existing 1972 home were not built to current code standards and had experienced movement and settling in response to the slope creep in the rear yard. The applicant’s geotechnical consultant, NorCal Engineering (9/13/2019 Addendum No. 2), has reported additional signs of ground movement, including a cracked concrete stem wall and differential settlement of the ground floor near the rear of the house. Although the several slope stability analyses provided by NorCal Engineering did not indicate deep-seated instability beneath the house, the on-the-ground observations provided by the applicant’s technical and construction experts provide clear evidence of surficial instability in the loose substrates of the upper bluff. Left unchecked, this downslope ground movement would result in damage to at least the seaward portions of the existing house.

Furthermore, the Commission’s geologist, Dr. Joseph Street, has determined that episodic slope failures have occurred along the lower Paseo de la Playa bluff, and that the upper bluff slope is also subject to surficial sliding and creep. He has also determined that the project site is located in close proximity to several active faults; thus, although the slope is grossly stable, the house is vulnerable to minor surficial slumps or ground cracking. Finally, erosion on the upper bluff could occur in response to the expected steepening of the lower bluff over the long term due to marine erosion, which would be exacerbated by sea level rise.

With regard to the stability of the bluff face where the four unpermitted retaining walls and foot trails are proposed to be removed, the applicant’s consultant submitted a third response dated January 2, 2020, which determined that removal of these walls would increase erosion along the slope and reduce stability of the descending slope area, and that the surficial soils within 4 feet from the slope face should be stabilized using the existing retaining walls and proper vegetation. However, with the recommendations of the Commission’s staff geologist, the wood retaining walls and foot trail can be removed in a safe manner that does not threaten the safety of the house. Therefore, to ensure the staircase, foot trail and retaining walls are removed in a geotechnically safe manner, **Special Condition 1** requires the applicant to submit revised plans with the City of Torrance Approval in Concept and Geotechnical review prior to issuance of the permit.

Dr. Street has reviewed the relevant materials associated with this project and has determined that in the absence of the concrete 70-foot long retaining wall, the existing home would be exposed to damage from shallow instability and slow creep in the loose, sandy soils underlying the rear patio and seaward portion of the house. Therefore, the Commission concludes that the residence is an existing structure in danger from erosion for purposes of 30235 and that the 70-foot long concrete retaining wall is necessary to protect the structure.

### **Feasible Protection Alternatives to a Shoreline Structure**

The third test of Section 30235 that must be met is that bluff retaining walls and other construction that alters natural shoreline processes shall be permitted when required to protect existing structures that are in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. In this case, the home located on the bluff top is an existing structure threatened by further erosion of the bluff and, therefore, entitled to shoreline protection under Section 30235. The applicant seeks after-the-fact approval for the construction of a concrete retaining wall to stabilize the slope adjacent to the house to keep the slope from failing, a naturally occurring geologic phenomenon that frequently happens along the shoreline below coastal bluffs. While the applicant is eligible to construct a retaining wall or other shoreline protective device to protect their home, section 30235 requires that such device be designed to eliminate or mitigate adverse impacts. When such structures are allowed, therefore, the Commission considers the least environmentally damaging alternative that still provides the structural support.

Other alternatives to protective devices typically considered include the “no project” alternative, managed retreat (including abandonment and demolition of threatened structures), relocation of threatened structures and/or portions thereof, site redevelopment on a stable portion of the property, beach and sand replenishment programs, foundation underpinning, drainage and vegetation measures, and combinations of each. Additionally, if armoring is determined to be the only feasible alternative, this test also requires that the chosen structural design of the protective device be the least environmentally damaging option, including being the minimum necessary to protect the endangered existing structure in question (here the residence). The applicants prepared an alternatives analysis for the proposed project, which included mechanically grading the bluff and excavating soils to underpin the house with deepened foundations.

#### ***Alternative 1: Mechanically Grading the Rear Yard Bluff Area***

Mechanically grading the rear yard bluff area was investigated as a means to create stability, but was ruled out because the process to create a 2:1 gradient slope would have required the removal of soil under the existing structure to the point of undermining the foundation in its entirety at the rear two-thirds of the dwelling. This would have been contrary to the goal of stabilizing the existing structure, and may be in conflict with other Coastal Act policies which require preservation of natural landforms.

***Alternative 2: Underpinning the House with Deepened Foundations***

Construction of a retaining wall with traditional toe-under concrete footings was also considered. Preliminary calculations produced by the applicant's engineer determined that this alternative would have required excavation to a minimum of 16 to 20 feet of depth for the retaining wall footing. The required footing width would have extended under the existing dwelling, thereby undermining the foundation and creating the necessity of shoring the structure, if possible. The excavation of soils would have required landform alteration that would have been contrary to the goal of stabilizing the existing structure.

***Alternative 3: No Project Alternative***

Although the applicant did not analyze the "no project alternative", Dr. Street has determined that the on-the-ground observations provided by the applicant's technical and construction experts provide clear evidence of surficial instability in the loose substrates of the upper bluff that if left unchecked, would lead to increased downslope ground movement that would result in damage to at least the seaward portions of the existing house.

Here, while the retaining wall and associated caissons are considered a "hard" bluff protective device that is designed to forestall erosion, it does alter natural landforms and inhibit natural shoreline processes. The retaining wall is located approximately 15 feet seaward of the residence which, according to the geologic consultants was as close as practicable to the structure while still allowing enough room to safely construct and maintain the retaining wall, and the applicants are proposing to remove four wood retaining walls that were constructed along the descending slope in the lower portion of the bluff, which will allow natural soil erosion to occur where they are currently preventing natural bluff erosion processes to occur. It has been demonstrated that the four wood retaining walls are not necessary to protect the existing structure in danger from erosion. While the 70-foot long concrete retaining wall will protect the existing house, the removal of the four other wood retaining walls on the bluff face will allow for more natural erosion processes to continue gradually overtime. Therefore, as conditioned the project is consistent with and allowed pursuant to, Section 30235 of the Coastal Act.

Installation of the caisson-supported upper bluff 70-foot long retaining wall was identified as the least-impactful alternative for stabilizing the slope and house foundation at the site. As noted by the contractor, one alternative to the retaining wall would have been a much larger scale project to underpin the existing home with deepened foundations. Such a project would involve temporary shoring of the bluff area to great depths and a large amount of excavation, both of which would have resulted in substantial alteration of the natural bluff landform.

In short, the proposed project alternative would be the least environmentally damaging feasible alternative and is consistent with Coastal Act Section 30235. Thus, the project meets the third test of Section 30235 of the Coastal Act.

## Shoreline Sand Supply Impacts

As cited above, Section 30235 of the Coastal Act requires that any required shoreline protection device only be approved if it is designed to eliminate or mitigate adverse impacts on local shoreline sand supply. In this case, the concrete retaining wall will not itself affect the beach's supply of sand that comes from the eroding bluffs. The retaining wall is located approximately +80 ft above mean sea level. All eroding bluff material seaward of the retaining wall will continue to contribute sand to the beach as ongoing erosion occurs. In addition, if ongoing erosion results in the eventual exposure of the caissons, the area of bluff between and behind the caissons could still fall to the beach below unabated. Furthermore, the applicants propose to remove 4 smaller wooden retaining walls from the middle to the lower portion of the bluff face that are currently keeping bluff material from eroding down to the beach. Removing these four retention devices will increase the supply of sand coming from the eroding bluffs which will contribute sand to the beach below.

## Drainage

Pursuant to Section 30253, to minimize erosion and ensure stability of the project site, the project must also include adequate drainage and erosion control measures to address site drainage issues that could otherwise contribute to erosion and geologic instability. As part of the project proposal, the unpermitted drain lines that are currently located down the bluff face draining runoff to rock riprap to dissipate the runoff, are proposed to be terminated and rerouted to the proposed sump pump to be located within the existing concrete patio. This will re-route any stormwater runoff from being drained onto the bluff face, which undoubtedly contributed to erosion, and pumps it to the street where it will be directed to the city's storm drain system.

To ensure the proposed project incorporates and implements these measures to address erosion, water quality, and pollution, **Special Condition 5** requires that the applicants comply with construction-related best management practices (BMPs) to prevent construction materials, debris and waste from entering receiving waters, prevent spillage and/or runoff of demolition or construction related materials, and to contain sediment or contaminants associated with demolition or construction activities. Because of the potential for future improvements at the bluff properties, which could potentially adversely impact the geologic stability, or other coastal resources, the Commission imposes **Special Condition 7**. This condition informs the applicants that future development at the site requires an amendment to this permit (5-21-0077) or a new coastal development permit.

The Commission also imposes **Special Condition 10** requiring the applicants to record a Deed Restriction acknowledging that, pursuant to this permit (CDP No. 5-21-0077), 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 Commission finds that only as conditioned as described above can the proposed development be found consistent with Sections 30253 and 30235 of the Coastal Act.

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

Sea level has been rising for many years. Several different approaches have been used to analyze the global tide gauge records in order to assess the spatial and temporal variations, and these efforts have yielded sea level rise rates ranging from about 1.2 mm/year to 1.7 mm/year (about 0.5 to 0.7 inches/decade) for the 20th century, but since 1990 the rate has more than doubled, and the rate of sea level rise continues to accelerate. Since the advent of satellite altimetry in 1993, measurements of absolute sea level from space indicate an average global rate of sea level rise of 3.4 mm/year or 1.3 inches/decade – more than twice the average rate over the 20th century and greater than any time over the past one thousand years.<sup>2</sup> Recent observations of sea level along parts of the California coast have shown some anomalous trends; however, the best available science demonstrates that the climate is warming, and such warming is expected to cause sea levels to rise at an accelerating rate throughout this century. The State of California has undertaken significant research to understand how much sea level rise to expect over this century and to anticipate the likely impacts of such sea level rise. In April 2017, a working group of the Ocean Protection Council's (OPC) Science Advisory Team released *Rising Seas in California: An Update on Sea-Level Rise Science*.<sup>3</sup> This report synthesizes recent evolving research on sea level rise science, notably including a discussion of probabilistic sea level rise projections as well as the potential for rapid ice loss leading to extreme sea level rise. This science synthesis was integrated into the OPC's *State of California Sea-Level Rise Guidance 2018 Update*.<sup>4</sup> This Guidance document provides high-level, statewide recommendations for state agencies and other stakeholders to follow when analyzing sea level rise. Notably, it provides a set of projections that OPC recommends using when assessing potential sea level rise vulnerabilities for various projects. Taken together, the Rising Seas science report and updated State Guidance account for the current best available science on sea level rise for the State of California. The updated projections in the 2017 Rising Seas report and the 2018 OPC Guidance suggest sea

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<sup>2</sup> <http://www.opc.ca.gov/webmaster/ftp/pdf/docs/rising-seas-in-california-an-update-on-sea-level-rise-science.pdf>

<sup>3</sup> Griggs, G, Árvai, J, Cayan, D, DeConto, R, Fox, J, Fricker, HA, Kopp, RE, Tebaldi, C, Whiteman, EA (California Ocean Protection Council Science Advisory Team Working Group). *Rising Seas in California: An Update on Sea-Level Rise Science*. California Ocean Science Trust, April 2017.

<sup>4</sup> OPC State of California Sea-Level Rise Guidance, 2018 Update: [http://www.opc.ca.gov/webmaster/ftp/pdf/agenda\\_items/20180314/Item3\\_ Exhibit-A OPC SLR Guidance-rd3.pdf](http://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20180314/Item3_ Exhibit-A OPC SLR Guidance-rd3.pdf)

levels could rise between 2.1 and 6.7 feet by 2100 at the Los Angeles tide gauge,<sup>5</sup> depending on future greenhouse gas emissions. The OPC Guidance recommends that development of only moderate adaptive capacity, including residential development, use the high end of this range, 6.7 feet, to inform decisions regarding development. The updated Rising Seas science report and OPC Guidance also include an extreme scenario (termed the “H++” scenario) of 9.9 feet of sea level rise by 2100 based on recent modelling efforts that look at possible sea level rise associated with rapid ice sheet loss. These projections and recommendations are incorporated into the 2018 update of the Coastal Commission Sea Level Rise Policy Guidance.<sup>6</sup>

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

Although the applicants geological reports did not acknowledge sea level rise, Commission staff’s preliminary evaluation of CoSMoS modeling for the project area indicates that the toe of the bluff is relatively resilient to sea level rise impacts over the next 75 years due to its high elevation and wide sandy beach.

The applicant’s engineers did not provide an erosion rate of the parcel, but based upon recent geologic studies of immediately adjacent parcels, an estimated retreat rate of 0.6 inches per year (0.05 feet/year), the upper bluff erosion is negligible provided existing drainage controls are maintained and appropriate additional drainage measures are included in the proposed project. However, shoreline areas are inherently dynamic environments. To ensure compliance with Chapter 3 hazards policies, property owners must take into account the risks of rising sea level when planning and designing coastal projects.

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<sup>5</sup> The OPC Guidance provides sea level rise projections for 12 California tide gauges, and recommends using the projections from the tide gauge closest to the project site. The projections for the LA tide gauge can be found on page 72 of the OPC Guidance.

<sup>6</sup> <https://www.coastal.ca.gov/climate/slrguidance.html>

Only as conditioned, does the Commission find that the development conforms to the requirements of Section 30253 of the Coastal Act regarding the siting of development in a hazardous location.

### **C. Biological Resources**

Section 30240 of the Coastal Act states:

**(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.**

**(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.**

Section 30107.5 of the Coastal Act defines environmentally sensitive habitat or ESHA as:

**"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.**

The subject site is adjacent to coastal bluffs known to support environmentally sensitive habitat areas (ESHA) that is potential habitat for an endangered species of butterfly endemic to the area. Due to the possible presence of El Segundo blue butterflies (*Euphilotes battoides allyni*) or its host plant, sea-cliff buckwheat, on the site (*Eriogonum parvifolium*), Commission staff requested that the applicant submit a biological survey to determine what types of vegetation currently exist on the property. In response, the applicant submitted the *Results of an El Segundo Blue Butterfly Habitat Assessment Survey of the Private Residence Located at 425 Paseo de la Playa in the City of Redondo Beach, Los Angeles County, California*, prepared by ECORP Consulting, Inc., on May 4, 2018. The report describes the findings of a biological survey conducted on April 26, 2018, and no sea-cliff buckwheat or El Segundo blue butterflies were found to occur on the property.

According to the assessment, the bluff is stabilized with a variety of non-native shrubs and ground cover with a few disturbed areas with minimal exposed bare ground. The bottom portion of the slope consists primarily of yellow iceplant (*Carpobrotus edulis*), which forms a thick carpet and comprises approximately 45% of the vegetation. The remaining slope is landscaped with small to medium sized shrubs including geraniums (*Geranium sp.*) bougainvillea (*Bougainvillea spectabilis*), and lantana (*Lantana sp.*) with rosemary (*Rosmarinus officinalis*), with non-native groundcovers, primarily creeping myoporum (*Myoporum parviflorum*) interspersed. Bermuda buttercup (*Oxalis pes-*

*caprae*), common dandelion (*Taraxacum officinale*), crabgrass (*Digitaria sanguinalis*), common sow thistle (*Sonchus oleraceus*) and common purslane (*Portulaca oleracea*) are invasive weed species that were observed within the disturbed areas in the top third of the slope. Based on the survey, Commission staff ecologist Dr. Engel determined that ESHA is not present on site.

To mitigate for the impacts resulting from the installation and presence of the unpermitted concrete staircase, railroad tie foot trail, wooden retaining walls, drainage pipes and riprap which collectively disturbed approximately 1,019 square feet of the bluff, the applicants have proposed to restore vegetation on approximately 5,227 square feet of Southern Coastal Bluff Scrub habitat ([Exhibit 4](#)).

To ensure proper implementation of the proposed restoration, **Special Condition 2** requires the applicants to submit a monitoring report five (5) years from the date of the approval for Coastal Development Permit No. 5-20-0077 and final restoration program. If the report concludes that the restoration is not in conformance with or has failed to meet the performance standards specified in the restoration program approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental restoration plan for the review and approval of the Executive Director.

## D. Marine Resources and Water Quality

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

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

There is a potential for discharge of polluted runoff from the project site into coastal waters as a result of the proposed development. Sections 30230 and 30231 of the

Coastal Act require that marine resources and the biological productivity of coastal water be maintained and enhanced. Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal waters via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. However, construction best management practices will be implemented to avoid or minimize impacts to the environment. Therefore, the proposed project is not anticipated to result in any significant adverse impact to marine resources or water quality. In order to ensure prevention of adverse construction-related impacts upon marine resources and to minimize erosion, the Commission imposes **Special Condition 3 and 5** requiring the applicants to implement construction best management practices. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

## **E. Coastal Access and Recreation**

Section 30210 of the Coastal Act states:

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

Section 30220 of the Coastal Act states:

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

Section 30221 of the Coastal Act states:

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

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

The proposed development is located within an existing fully developed residential community located between the sea and the first public road paralleling the sea. Torrance Beach, a public beach, is located seaward of the applicants' property lines at the toe of the bluff. Public access through the privately owned residential lots in this community does not currently exist. Public access to Torrance Beach is available approximately 185 feet north of the project site via public parking lots and footpaths at Torrance Beach. There is also a beach access way and public parking to the south of the project site in Palos Verdes Estates.

To the maximum extent possible, the applicant proposes to remove unpermitted development by hand, and dispose of it through the street side of the property from the top of the bluff and through the side yards. For the restoration work that is proposed to occur on the bluff face, the applicant proposes staging to occur on top of the bluff on the level concrete patio inland of the bluff edge. The applicant is not proposing to utilize the public beach for access to the site for restoration activities. To ensure public access to the beach will not be impeded by the proposed project, the Commission is imposing **Special Condition 4.**

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

## **F. Visual Resources**

Section 30251 of the Coastal Act states:

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

The Coastal Act protects the visual quality of scenic coastal areas. The project is located on a coastal bluff top lot overlooking the Pacific Ocean. No public views of the ocean area available from the subject site, but the site is visible from public vantage points, including the ocean, and Torrance Beach, the public beach below the bluff. The Commission has observed that cumulatively, such development obscures the public's view of the natural landforms of bluffs and cliffs. Because the proposed development will potentially affect views from public vantage points, any adverse visual impacts must

be minimized. Consequently, it is necessary to ensure that the development will be sited to protect views to and along the ocean and minimize the alteration of existing landforms.

The project, as proposed, includes after-the-fact approval of a 3-foot high, 70-foot long retaining wall with 9 buried caissons. Although the wall is approximately 3-feet high, only approximately 6-inches of that wall is exposed above-grade, and it is covered with vegetation at the top of the slope, which is not visible from the public beach below and does not impact the public's view of the natural bluff. Furthermore, the applicants are proposing to remove the unpermitted bluff face development, and restore a portion of the bluff with native vegetation appropriate for southern bluff scrub habitat. As set forth in earlier discussion, after the proposed restoration is complete, the visual quality of the bluff will be improved as compared to the visual impacts of the unpermitted staircases and retaining walls that currently exist on the bluff.

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

## **G. Coastal Access Violations**

Violations of the Coastal Act have occurred on the subject property including, but not necessarily limited to, construction of 1) an approximately 70- ft. long, 3-foot high retaining wall with nine 18-inch diameter caissons, 2) a coastal bluff-face concrete staircase, 2) a railroad tie pathway, and 3) four wooden retaining walls, as well as installation of drainage pipes and associated rock riprap. To address some portions of the unpermitted development, the applicant is applying for a coastal development permit for after-the-fact approval of the installation of an approximately 70- ft. long, 3-foot high retaining wall with nine 18-inch diameter caissons. In order to resolve the remaining violations described above the applicants are proposing to remove the unpermitted concrete staircase, railroad tie pathway, 4 retaining walls, drainage pipes and riprap, which amounted to approximately 1,1019 square feet, and to restore the bluff face with 5,227 square feet of native Southern Coastal Bluff plant species ([Exhibit 3 & 4](#)). Proposed restoration of the bluff face includes a monitoring plan to measure the effectiveness and success of the restoration project. Approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's subsequent performance of the work authorized by the permit in compliance with all of the terms and conditions thereof the permit will result in resolution of the violations described above.

Consideration of the permit application by the Commission has been based solely on consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. Approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's subsequent compliance with all terms and conditions of the permit will result in resolution of the violations describe above. Approval of this permit is

possible only because of the conditions included herein, and the applicant's presumed subsequent compliance with said conditions, and failure to comply with these conditions in conjunction with the exercise of this permit would also constitute a violation of this permit and of the Coastal Act. Accordingly, the applicant remains subject to enforcement action just as it was prior to this permit approval for engaging in unpermitted development, unless and until the conditions of approval included in this permit are satisfied.

## H. Local Coastal Program

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

**(a) Prior to certification of the Local Coastal Program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.**

On June 18, 1981, the Commission approved with suggested modifications the City of Torrance Land Use Plan (LUP). The City did not accept the modifications and the certified LUP, which was valid for six months, lapsed. The major issues raised in the LUP were affordable housing, bluff top development and beach parking.

Based upon the findings presented in the preceding section, the Commission finds that the proposed development, as conditioned, will not create adverse impacts on coastal resources. In addition, the Commission finds that approval of the proposed project will not prejudice the City's ability to prepare a Local Coastal Program consistent with the Chapter 3 policies of the Coastal Act, as required by Section 30604(a).

## I. California Environmental Quality Act

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being

approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission incorporates the above findings on Coastal Act consistency at this point as if set forth in full. As discussed above, the proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Special Conditions imposed will mitigate adverse impacts to coastal resources and public access. The **Special Conditions** address the following issues: **1)** final plans; **2)** habitat restoration and monitoring plan; **3)** erosion control plan; **4)** staging; **5)** storage of construction materials; **6)** best management practices; **7)** future development; **8)** no future shoreline protective devices; **9)** assumption of risk; and **10)** a deed restriction. Therefore, the Commission finds that, as conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect of the proposed project, there are no remaining significant environmental impacts within the meaning of CEQA, and the project is consistent with CEQA and the policies of the Coastal Act.