

CALIFORNIA COASTAL COMMISSION

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Th14b

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STAFF REPORT: REGULAR CALENDAR

Application No.: 5-19-1212

Applicant: The Beach Club of Santa Monica

Agent: D.J. Moore, Latham and Watkins, LLP

Location: 201 Palisades Beach Road, Santa Monica, Los Angeles County (APN: 4293-017-012)

Project Description: Remodel existing Beach Club including: 1) renovate kitchen, bar, and seating areas; 2) add employee service facilities, maintenance facilities, and basement-level storage facilities; 3) seismic retrofitting; 4) new mat-slab foundation for proposed remodel and addition areas; 5) demolish small storage sheds, remove shade structures, and vegetation; 6) modify fencing for two new proposed view corridors, to include 20-ft. southern view corridor and 49-ft. northern view corridor; and 7) request for after-the-fact approval of unpermitted development.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The applicant proposes a remodel, addition, and renovation of the private Beach Club located in Santa Monica's North Beach area. The project consists of several

components, which include a remodel of two kitchen areas, remodel/addition of maintenance and service areas, retrofitting of the entire building, placement of a new foundation under the remodel/addition areas, and after-the-fact approval for developments that were undertaken without a permit prior to this CDP application ([Exhibit 2](#)). The main kitchen will be renovated to meet current health code standards and would result in 24 square feet of new floor area and a new area for cold food storage and dry food storage. The 646 square-foot “grill kitchen” will be renovated to include a new 150 square-foot grill serving area but will remain within the same building footprint ([Exhibit 3](#)). The applicant also proposes a remodel/addition of the 2,159 square feet of outdoor maintenance and employee service areas located to the east of the main kitchen by enclosing the outdoor areas. A portion of the lower southern roofline from the existing building edge would be extended to enclose the maintenance and employee services areas and incorporate new floor area into the building. The project would also provide additional support for the proposed kitchen and employee area improvements with a new mat foundation for the renovated areas, as well as a seismic retrofit of the entire building.

Finally, the following unpermitted development and/or accessories have been installed on the site, and some elements are proposed to be removed while other elements are proposed to be retained via after-the-fact approval: 1) a large, white storage tent located on the northern seaward end of the existing tennis courts; 2) a sand volleyball court seaward of the existing tennis courts that appears to have been constructed between 1989 and 2002; 3) a medium sized white tent located within the sand volleyball court; 4) a green picket fence that surrounds the sand volleyball court; 5) a hut; 6) two playground structures; 7) a bocce ball court; 8) temporary tent structures; 9) a patio with trellis (outdoor dining); 10) a 1,623 sq. ft. asphalt paved area and six associated storage sheds; 11) 7 foot high privacy fence (except for 20-ft. section per View Corridor Special Condition); and 12) asphalt parking lot.

The project site is a 72,000 square foot, sandy beach-fronting lot adjacent to Santa Monica State Beach, located at 201 Palisades Beach Road (Pacific Coast Highway) between the first public road and the sea. The site is developed with a 32,000 square foot, two story private beach club building. The primary issues raised by the project include public access, visual resources, hazards, and biological resources.

The proposed additions and expansion of the facilities adjacent to the public beach may result in adverse impacts to public access and recreation as such intensification may contribute to the perception that portions of the beach seaward of the club are private, which is exacerbated by a history at the site of installing unpermitted structures and landscaping on the portion of the property leased from the State (as detailed below). Over the years, the Beach Club has constructed and installed a number of improvements on the leased land parcels without the benefit of a CDP, many of which could be considered to be permanent structures, and other temporary structures that may impede public access and recreational opportunities, as further described below, and represent increasing encroachments of development on the sandy beach, inconsistent with Chapter 3 policies of the Coastal Act.

To address the unpermitted development and the violation of the past conditions of approval, the applicant has proposed to remove the following improvements: 1) the sand volleyball court; 2) the white tents located within the tennis court and the sand volleyball court; 3) the green chain-link fence surrounding the sand volleyball court; 4) the unpermitted wind fence; 5) the storage sheds; 6) the “ private property signs” located on the leased public lands; and 7) the hut with concrete foundation on land lease parcel PRC 7031. Furthermore, the applicant has requested an after-the-fact approval to retain the following unpermitted improvements: 1) two shade structures adjacent to the tennis courts; 2) a bocce ball court; 3) two playground structures; 4) and a series of palm trees planted along the boundary of the leased land parcel and the public beach. Development on the leased lands must be limited in order to minimize the effects of de facto privatization of public recreation area. Although the leased land agreements between the State Lands Commission and the Beach Club allow for some temporary development on the leased land areas, they do not allow for permanent structures to be constructed on the sandy beach; and regardless of what the lease may allow, any proposed development must be reviewed by the Commission for impacts to coastal resources, including public beach access and recreation.

The North Beach Santa Monica portion of PCH is currently visually degraded (blocked by residential and commercial development for a stretch of nearly one mile, with the exception of the surface public parking lots). The applicant has proposed two view corridors to the north and south of the main Beach Club facility. The corridors will provide sand and blue water views from various angles.

A 0.27-acre vegetated dune is present on land lease parcel PRC 7032 adjacent to the tennis courts. Aerial images of the project site show that the dune started forming at its current location at some point between 1987 and 2002 and was likely formed from sand accumulation along the unpermitted sand fence seaward of the tennis courts. The dune is largely bounded by the Marvin Braude Bicycle Path, the sand volleyball court, the tennis courts, and the public beach access path. However, the dune also has appeared to have expanded to sparse areas seaward of the unpermitted sand volleyball court. The applicant’s biological assessment notes that the dune is located within a highly disturbed area adjacent to a heavily used bicycle path and that the vegetated dune mainly consists of invasive species, although a small percentage of Beach Burweed and Beach Evening Primrose – both native dune species that are not special status flora – are present on the dune. The Commission’s ecological technical staff has identified the dune as environmentally sensitive habitat area (ESHA) that should be protected due to its morphology (the presence of hollows or depressions and hummocks or mounds) which supports shorebirds and native flora. The removal of the unpermitted sand volleyball court, its unpermitted associated structures (the tent and fencing surrounding the tent) and the wind fence would provide an opportunity for the dune to expand naturally inland.

Overall, the proposed project can be found to be consistent with the Chapter 3 policies of the Coastal Act only if conditioned with ten special conditions. The special conditions require the applicant to: 1) provide final revised plans to remove portions of unpermitted development, identify unpermitted development that will not be approved pursuant to

this coastal development permit; 2) provide a signage plan for the Beach Club site that will not restrict public access to state tidelands or any public access general easement areas; 3) receive a local approval from the City of Los Angeles for all portions of the project that occur within its jurisdiction; 4) receive State Lands Commission approval for any development that occurs in land lease parcel PRC 7031 and 7032; 5) provide and maintain two view corridors that total 69 feet in length; 6) waive future rights to shoreline protection for the proposed new improvements to the Santa Monica Beach Club; 7) assume the risk of developing in an area that is inherently vulnerable to sea-level rise impacts; 8) provide annual monitoring for the leased land parcels; 9) require a CDP for any future improvements on any of the private or leased land parcels; and 10) record a deed restriction to memorialize the special conditions of this permit.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 5-19-1212, as conditioned. The motion is on Page 6 of the staff report. The standard of review is Chapter 3 of the Coastal Act.

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EXHIBITS

[Exhibit 1 – Vicinity Map and Project Site](#)

[Exhibit 2 – Beach Club Parcels](#)

[Exhibit 3 – Project Structural Plans](#)

[Exhibit 4 – Unpermitted Development](#)

[Exhibit 5 – Proposed View Corridors](#)

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit 5-19-1212 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 Coastal Development Permit 5-19-1212 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the Chapter 3 policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

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. Final Revised Plans.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, two full-size sets of the following revised final plans and a staging plan, modified as required below.

1. Removal of Unpermitted Development. As proposed by the applicant, the applicant shall remove the unpermitted development, including but not limited to the list below, within 90 days of issuance of this permit. If additional time is required to remove the development, the permittee may submit an extension request for the review and approval by the Executive Director:

- a. Large White Tent located within Tennis Courts
- b. Sand volleyball court
- c. Medium White tent within sand volleyball court
- d. Chain-link fence surrounding volleyball court
- e. beach hut and concrete foundation located on Santa Monica leased land parcel
- f. a storage shed located adjacent to the unpermitted sand volleyball court
- g. "Private Property" signs located within 40 feet of the Marvin Braude Bicycle Trail

These items shall not be approved pursuant to CDP No. 5-19-1212 and may be subject to further action by the Commission's Enforcement Division.

2. New temporary tent structures. The applicant shall submit a plan sheet for the relocation of tent structures for the review and approval by the Commission's Executive Director. The tent structures must not rely on a foundation structure or deepened footings for support.

3. Sand/Wind protection for the existing tennis courts. No new protective wind fencing shall be constructed seaward of the existing tennis courts. However, the applicant may modify the existing chain-link fence surrounding the tennis courts to install a sand screen no more than 48-in. high.

4. Development on Leased Lands. By acceptance of this permit, and as proposed, the permittee acknowledges that only temporary, easily removable accessories shall be placed on the leased State-owned lands within the project site (i.e. beach umbrellas, chairs, shade tents that do not require foundations). Any permanent development, including accessory structures with a foundation, or other fixtures not authorized by this permit shall be called out as unpermitted development on the final plans.

5. Staging Plan. No staging shall occur on the public beach seaward of the leased parcels. Construction corridors shall be located landward of the public beach. Necessary access to the public beach in order to remove unpermitted development on the public beach shall not occur without proper approvals from the State Lands Commission.

B. All revised plans shall be prepared and certified by a licensed professional or professionals as applicable (e.g., architect, surveyor, geotechnical engineer), based on current information and professional standards, and shall be certified to ensure that they are consistent with the Commission's approval and with the recommendations of any required technical reports [as may be specified below.]

C. The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

2. Signage Plan. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval by the Executive Director a Signage Program showing the location, size, design, type (permanent or temporary) and content of all signs to be installed on the subject site consistent with the following provisions:

1. The applicant acknowledges and agrees that no signs shall be posted on the sandy beach unless specifically authorized by the approved signage plan, a separate coastal development permit, or an amendment to this coastal permit. No signs that restrict public access to State tidelands, public vertical or lateral access easement areas, or which purport to identify the boundary between State tidelands and private property shall be permitted.

2. The permittee shall install all signs in accordance with the approved plans within 180 days after issuance of this permit. The Executive Director may grant additional time for good cause. The permittee, or its successor in interest, shall maintain the approved signs in good condition for the life of the project and replace when necessary.

3. The permittee shall remove any signage if the 1921 Mean High Tide Line (the defining boundary between public and private land) moves landward or if the Beach Club's leased land agreements with the State Lands Commission expire.

3. Local Government Approvals. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall obtain and provide to the Executive Director a copy of all required local approvals, including a coastal development permit issued by the City of Los Angeles for construction of a fence and removal of unpermitted structures and temporary construction staging and corridors, within the City of Los Angeles' Dual Permit Jurisdiction, or evidence that no permit or other local approval is required for the proposed project. The applicant shall inform the Executive Director of any changes to the project required by the City of Los Angeles. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director issues a written determination that no amendment is legally required.

4. State Lands Commission Approval.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval, a written determination from the California State Lands Commission (CSLC) that:

1. No state lands are involved in the development; or
2. State lands are involved in the development, and all permits/approvals required by CSLC have been obtained: or
3. State lands may be involved in the development, but pending a final determination of state land involvement, an agreement has been made by the applicant with CSLC for the project to proceed without prejudice to the determination.

B. Any project change(s) required by CSLC that are not in substantial conformance with the proposed plans shall require an amendment to this permit or an additional coastal development permit from the Coastal Commission.

5. View Corridor Maintenance

A. In order to provide and maintain coastal views from Pacific Coast Highway/Palisades Beach Road, the permittee shall maintain two view corridors across its property. The southern view corridor shall extend from the southern property line 25 feet north along the northern property line, as shown on [Exhibit 5](#). The northern view corridor shall extend 49 feet north from the northern edge of the Beach Club facility, as shown on Exhibit 2. The objective of the view corridors is to enhance and protect views of the shoreline and ocean from the point of view of a motorist on PCH/Palisades Beach Road.

1. To carry out this obligation, the permittee shall remove all of the structures and accessories located within the two proposed view corridors. In maintaining both the northern and southern view corridors, no permanent fixed structures or new vegetation are allowed within the

view corridors, and temporary structures (tents, cabanas, awnings, table and chairs, storage of accessories, etc.) are also not allowed within the view corridors. This condition does not preclude the daily use of typical, less visually intrusive beach amenities, such as umbrellas and low profile, removable/retractable shade structures. The beach amenities may be placed at any time upon the request of guests but must be removed immediately when not in use by guests and when the facilities are closed for the day to preserve sand and blue water views. Existing vegetation may remain but shall be trimmed and maintained such that the canopy shall not be enlarged from its existing condition. Tree trimming is not authorized through this permit and requires an amendment or a new CDP prior to tree trimming activities.

2. This permit does not authorize windscreens or any other structures seaward of the pre-Coastal chain-link fence associated with the tennis courts. The permittee may affix a windscreen to the pre-Coastal chain-link fence, provided that the following parameters are met: the windscreen must be no taller than 48 in. high and maintained regularly. Visually permeable screening is required within the view corridor.

B. The permittee has proposed to replace 25 feet of an unpermitted 7-foot high fence with a 42-inch high wrought iron fence at the landward edge of the southern view corridor. The wrought iron fence shall not exceed 42 inches in height, the pickets/rods shall be no thicker than 0.5 inches, and the picket/rod spacing shall be vertical or horizontal only and shall be no closer than 6 inches. The northern view corridor contains existing recreational amenities (volleyball court). The unpermitted wooden fencing located along the landward edge of the northern view corridor seaward of the chain-link fence is proposed to be removed and is not authorized to be replaced by this coastal development permit.

6. Waiver of Rights to Future Shoreline Protective Device

- A. By acceptance of this permit, the landowners, on behalf of themselves and any successors and assigns, that no new shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-19-1212, including the improvements to the club facility (remodeled areas and new additions) and the accessory improvements (new fencing and accessory development) in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or any other natural hazards in the future. By acceptance of this permit, the permittee hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235 or any similar provision of an LCP.
- B. By acceptance of this Permit, the permittee further agrees, on behalf of itself and all successors and assigns, that they are required to remove all or a portion of the

development authorized by the permit, and restore the site, if any of the following occur:

1. 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 damage or destruction from waves, flooding, erosion, bluff retreat, landslides, or other hazards related to coastal processes, and that there are no feasible measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices;
2. essential services to the site (e.g., utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above;
3. removal is required pursuant to LCP policies for sea level rise adaptation planning; or
4. the development requires new and/or augmented shoreline protective devices that conflict with relevant LCP or Coastal Act policies.

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

7. **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 or similar hazards; (ii) to assume the risks to the applicant, the public, the club members, 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.
8. **Annual Monitoring for Leased Lands.** Not more than 1 year after removal of the unpermitted fence and volleyball court, the permittee shall provide photos showing the status and a description of all temporary development and natural features (including the sand dune located seaward of the tennis courts) within the leased lands for review and monitoring by the Commission's Executive Director. Such

photos shall be submitted once annually (no later than December 31st of each year) for the life of the development.

9. 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 applicants 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; and
- M. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
- N. During construction of the project, no runoff, site drainage or dewatering shall be directed from the site into any street, alley or stormdrain, unless specifically authorized by the California Regional Water Quality Control Board

10. Future Improvements. This permit is only for the development described in coastal development permit (CDP) No. 5-19-1212. Pursuant to Title 14 California Code of Regulations (CCR) Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) Section 30610(b) shall not apply to the development governed by CDP No. 5-19-1212. Accordingly, any future improvements to the portions of the club authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in PRC Section 30610(d) and Title 14 CCR Sections 13252(a)-(b), shall require an amendment to CDP No. 5-19-1212 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government(s).

11. 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 privately-owned 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 privately-owned parcel(s) 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 Background

The applicant proposes a remodel, addition, and renovation of the privately owned Santa Monica Beach Club building and amenities located in Santa Monica's North Beach area. The project site is a 72,000 square foot, sandy beach-fronting lot adjacent to Santa Monica State Beach, located at 201 Palisades Beach Road (Pacific Coast Highway) between the first public road and the sea. The site is developed with a 32,000 square foot, one and two story private beach club building, tennis courts, parking lots, and other amenities. The Beach Club owns the two adjacent parcels (14730 Pacific Coast Highway, Santa Monica, and 237 Palisades Beach Road, Santa Monica), and leases two adjacent, seaward parcels from the State Lands Commission ([Exhibit 1](#)).

The project includes several components, which include a remodel of two kitchen areas, remodel/addition of maintenance and service areas, retrofitting of the entire building, placement of a new foundation under the remodel/addition areas, and after-the-fact approval for developments that were undertaken without a permit prior to this CDP application. The following information details the components of the proposed project.

First, the applicant proposes to remodel and renovate two kitchen areas. The 2,738 square-foot main kitchen is used to service the full-service dining areas within the Beach Club. This kitchen will be renovated, including a replaced foundation, resulting in 24 square feet of new floor area and a new area for cold food storage and dry food storage. The entire main kitchen will be renovated to meet current health code standards. The 646 square-foot "grill kitchen" is used to serve the limited-service dining and bar areas. This kitchen will be renovated to include a new 150 square-foot grill serving area but will remain within the same building footprint ([Exhibit 3](#)).

The applicant also proposes a remodel/addition of the 2,159 square feet of maintenance and employee service areas located to the east of the main kitchen. This area currently consists of a maintenance shop with office, kitchen storage, other miscellaneous storage rooms, and employee restrooms. These areas are separated from the rest of the main building and are located outdoors. This project proposes to extend a portion of the lower southern roofline from the existing building edge to enclose 1,837 sq. ft. of outdoor maintenance and employee services areas and incorporate this area into the building. The newly-enclosed area will be renovated to create a new employee break area, men's and women's employee locker rooms, and larger restrooms. The maintenance shop with office and storage areas will be retained ([Exhibit 3](#)).

The main building was constructed in 1923 with a slab-on-grade foundation and has improved and changed overtime. The kitchen, employee service facilities, maintenance facilities, and storage facilities all require a stronger foundation system, which the current foundation cannot accommodate. Therefore, the applicant is proposing to provide additional support for the proposed kitchen and employee area improvements with a new mat foundation.

Also included in the project's scope of work is a seismic retrofit of the entire building. This consists of a renovation of the foundation system for the new and remodeled areas, vertical framing structural systems, and lateral force resisting systems. ADA accessibility components for the remodel/addition area and the mechanical, electrical, and plumbing systems will also be updated to meet the current code requirements.

The proposed project also identifies the following unpermitted development and/or accessories which have been installed on the site. Some elements are proposed to be removed while other elements are proposed to be retained via after-the-fact approval (**Exhibit 4**). The applicant is proposing to remove the following unpermitted development:

- 1) large, white storage tent located on the northern seaward end of the existing tennis courts¹
- 2) sand volleyball court seaward of the existing tennis courts that appears to have been constructed between 1989 and 2002¹
- 3) medium sized white tent located within the sand volleyball court¹
- 4) chain-link fencing that surrounds the unpermitted sand volleyball court
- 5) a storage shed seaward of the unpermitted volleyball court
- 6) green sand fence that is located three ft. seaward of the paddle tennis courts¹
- 7) shade structures and storage shed located adjacent to the tennis courts¹
- 8) hut that is supported with a foundation and used as a cabana¹

The applicant is requesting an after-the-fact approval for the following unpermitted development:

- 9) two playground structures¹
- 10) bocce ball court
- 11) series of palm trees planted along the border between the leased land areas and the public beach recreation area
- 12) an 18-space parking lot constructed as an addition to the existing lot
- 13) 1,623 sq. ft. asphalt paved area and six associated storage sheds
- 14) 1,225 square foot concrete slab patio with two associated trellis shade covers

¹ Unpermitted development located within the State-leased land

B. Jurisdiction

The project site spans five parcels, three of which are owned by the Beach Club and two of which are held in public trust. **Exhibit 2** shows the five parcels that make up the project site. Of the three privately held parcels, two parcels are identified as 201 Palisades Beach Road and 237 Palisades Beach Road and are located completely within the City of Santa Monica. The City of Santa Monica has a certified Land Use Plan (LUP) but does not have a certified Local Coastal Program (LCP). Therefore, the Coastal Commission is the primary permitting agency for CDPs for these two parcels.

The third privately owned parcel is identified as 14730 Pacific Coast Highway and is located in the Pacific Palisades area of the City of Los Angeles. The Pacific Palisades section of Los Angeles does not have a certified LUP or LCP. Section 30600(b) of the Coastal Act allows a local government to assume permit authority prior to certification of its local coastal program. Under that section, the local government must agree to issue all permits within its jurisdiction. In 1978 the City of Los Angeles chose to issue its own CDPs pursuant to this provision of the Coastal Act. Within the areas specified in Section 30601 of the Coastal Act, which is known in the City of Los Angeles permit program as the Dual Permit Jurisdiction area, the Act requires that any development that receives a local CDP also obtain such a permit from the Coastal Commission. Section 30601 of the Coastal Act defines the area that is known in the City of Los Angeles permit program as the Dual Permit Jurisdiction Area. The Dual Permit Jurisdiction Area consists of all lands located (1) between the sea and the first public road, (2) within 300 feet of the inland extent of a beach, or the sea where there is no beach, (3) on tidelands or submerged lands, public trust lands, (4) within 100 feet of a wetland or stream, or (5) within 300 feet of the top of the seaward face of a coastal bluff, and also includes (6) any development which constitutes a major public works project. Projects located in the City's Dual Permit Jurisdiction must obtain a local CDP from the City of Los Angeles as well as a CDP from the Coastal Commission.

The 1921 mean high tide line was formally established as part of a settlement between the State Lands Commission, City of Santa Monica, and various private property owners -- including The Beach Club -- as the legal property line between public (state-owned) property and private property in 1986. As a part of the settlement agreement, the State Lands Commission agreed to lease the two publicly held parcels to the Beach Club. One parcel (PRC 7031) is largely located in the City of Santa Monica and is managed by the California Department of State Parks (State Parks) on behalf of the State Lands Commission. The second lease parcel (PRC 7032) is largely located within the City of Los Angeles (Will Rogers State Beach, Pacific Palisades) and is managed directly by the State Lands Commission. Parcels PRC 7031 and PRC 7032 are also located within the Coastal Commission's area of retained jurisdiction. Any proposed development on the leased land areas require evidence of approval from either the State Lands Commission (for the Los Angeles leased land parcel) or State Parks (for the Santa Monica leased land parcel) as well as a CDP from the Coastal Commission.

Although the Coastal Commission was not a party to the 1986 lease agreements the Commission has not permitted private, permanent improvements seaward of the 1921

mean high tide line in previous North Beach permit actions. In this case, the proposed improvements to the main structure and the after-the-fact approval requests are located both landward and seaward of the 1921 mean high tide line and span all five parcels, and only temporary development is approved within the leased lands area.

The proposed kitchen remodel and addition to the main structure would be located on the 201 Palisades Beach Road Parcel and the 237 Palisades Beach Road parcel. The City of Santa Monica provided a local approval for the proposed work on September 26, 2017. Thus, the remodel and addition components of the project only require a CDP from the Coastal Commission.

The after-the-fact approval requests for the unpermitted development referenced earlier in this report span all five parcels. State Parks provided an after-the-fact authorization for all of the unpermitted development on both of the leased parcels. However, it is unclear whether the State Parks approval applies to the unpermitted development on PRC 3072 because the State Lands Commission manages PRC 7032. The land lease agreements state that any proposed development on the land lease area should receive approval from the State Lands Commission. Therefore, the Commission imposes **Special Condition 4**, requiring the applicant to obtain a written approval from the State Lands Commission for any development occurring within PRC 7031 and 7032. This includes any after-the-fact authorization for unpermitted development and/or removal of unpermitted development from both parcels.

In addition, a portion of the above described project is located in the City of Los Angeles' Dual Permit Jurisdiction area. Specifically, the applicant proposes to replace a five-ft., seven-in. tall picket fence with a shorter two-ft. tall picket fence in order to create a view corridor on the northern end of the project site (as detailed below), and remove an unpermitted volleyball court and remove a wooden sand fence adjacent to a sand dune considered ESHA, as well as remove "private property" signs located seaward of the lease lands parcels. This development is proposed within the dual permit jurisdiction may require a local CDP from the City of Los Angeles, but the City has not reviewed the proposed project within its jurisdiction. The applicant indicates that the City defines fences shorter than six feet as exempt from planning review, however the removal of the other development may require a CDP. Pursuant to Title 14 of the California Code of Regulations section 13301(a), the development must be reviewed by the City of Los Angeles before the Commission issues a CDP. Therefore, the Commission imposes **Special Condition 2**, requiring the applicant to obtain a local CDP from the City of Los Angeles (or a determination that a local CDP is not necessary) prior to issuance of the Commission's CDP.

C. Public Access/Recreation

Coastal Act Section 30210 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.

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 vegetation.

Coastal Act Section 30212 states, in relevant part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Coastal Act Section 30221 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.

The project site is located approximately 1.5 miles north of the Santa Monica Pier in an area referred to in the certified LUP as the North Beach area. The North Beach area contains the Santa Monica's northern sandy beach area, multiple private beach clubs, single-family and multi-family residential development, and public beach parking lots; a portion of the project site extends into the Pacific Palisades area of the City of Los Angeles. The sandy beach area seaward of the property is approximately 500 feet in width. The Marvin Braude Trail, a 20-foot wide bicycle and pedestrian path, is located approximately 180 feet seaward of the western property line on the public sandy beach.² Vertical public access to the public beach is available just north of the Beach Club from the adjacent State Beach parking lot and pathway that extends from the parking lot to the bicycle path and a second State Beach parking lot located approximately 225 feet to the south.

The proposed project includes two main components: 1) a remodel/addition to the existing Beach Club structure; and 2) after-the-fact request for approval for a portion of

² The Marvin Braude Trail is currently undergoing a trail expansion, which was approved pursuant to CDP No. 5-18-0267. The trail will be widened by approximately 17 feet on the seaward side of the existing path.

unpermitted developments constructed and installed on all five parcels and removal of a portion of unpermitted development, as described above. The unpermitted developments occur on both the privately held parcels and the leased land parcels.

Component 1: Remodel/Addition to Existing Beach Club Structure

The primary component of the proposed project involves the remodel of two kitchen areas, remodel/addition of maintenance and service areas, retrofitting of the entire building, and the placement of a new foundation under the remodel/addition areas. The remodel would add 24 sq. ft. to the main kitchen,³ 150 sq. ft. of grill kitchen service area,³ and 1,867 sq. ft. to the maintenance and employee service area.

In previous Commission action on the Beach Club, parking was analyzed using a standard of one parking space per 75 gross square feet. The project proposes to add 1,867 sq. ft. of new gross floor area, which would require 24 new spaces using the same parking standards for the beach club. The Beach Club currently has 189 parking spaces (11 of which were added through CDP No. 5-93-186 to accommodate an addition of approximately 760 square foot new grille and a reconstructed dining room, and 18 of which were added through an unpermitted parking lot expansion, which the applicant is seeking to retain through this permit application). Given that the Beach Club is a pre-Coastal structure that has not yet been remodeled to the threshold of new development, the 160 parking spaces that were originally associated with the structure constitute a legal non-conforming parking allotment, and because 11 spaces were added to support a past addition, the total number of spaces available to meet the demand of the addition is 18 (and therefore, there is a shortage of 6 spaces). However, the 1,837 sq. ft. addition will enclose outdoor maintenance and employee services areas, and the newly-enclosed area will be converted into a new employee break area, men's and women's employee locker rooms, and employee restrooms. Because the addition does not represent an expanded club member area or a dining area, it will not result in an increase in intensity of parking demand. Therefore, the additional 18 spaces can be approved after-the-fact to support the proposed 1,837 sq. ft. addition without impacting public beach access.

The portion of the structure that would be remodeled is located on the landward side of the Beach Club main structure, which is itself located more than 200 ft. landward of the Marvin Braude Bicycle Trail. The proposed remodel would not encroach further seaward but would remain within the existing developed footprint. Therefore, the proposed remodel would not cause additional impacts to public access to and along the Marvin Braude Beach trail or the other coastal access routes.

However, the additions and expansion of the facilities adjacent to the public beach may result in adverse impacts to public access/recreation as such intensification may

³ This addition was achieved through a reconfiguration of the interior space and does not represent a net increase in the existing gross floor area. However, the remodeled area includes structural changes such as a new foundation.

contribute to the perception that portions of the beach seaward of the club are private, which is exacerbated by a history at the site of installing unpermitted structures and landscaping on the portion of the property leased from the State (as detailed below). Accordingly, to minimize potential impacts to the public's use of the beach seaward of the site, the Commission imposes **Special Condition 2** requiring the applicant to prepare and implement a signage program to ensure that the applicant installs signs that accurately demarcate the private areas and do not deter the public from using the public portions of the beach adjacent to the property.

There is potential for future development on the site to adversely impact public access. Accordingly, the Commission imposes **Special Condition 8**, requiring an amendment to Permit no. 5-19-1212 or an additional CDP for any future improvements to any of the structures approved by this coastal development permit, including actions that may ordinarily be exempt from CDP requirements.

Component 2: After-the-fact Approval Request for Unpermitted Development

The presence of unpermitted development on the leased land parcels is problematic because they have the effect of privatizing portions of the sandy beach that should be reserved for public use. The leased lands were intended to be a temporary grant to the Beach Club as part of a boundary dispute settlement in 1986. The current terms of the agreement allow PRC 7031 and PRC 7032 to be leased to the Beach Club until 2050. It is unclear whether the Beach Club will have an option to renew their lease after 2050, but there exists a possibility that the leased land area will revert back to public use at some point in the future. Accordingly, one of the conditions of the leased land agreements is that no "permanent improvements" (i.e. structures with a foundation, or structures intended to last more than 5-10 years, or structures that cannot be easily moved) are allowed within the leased land areas. While the lease agreement is specific about what types of improvements and development can be allowed on State Lands, the lease does not obviate the need for a coastal development permit, and the construction or installation of new fixtures and development on State Lands must be found consistent with Chapter 3 policies of the Coastal Act.

Over the years, the Beach Club has constructed and installed a number of improvements on the leased land parcels without the benefit of a CDP, many of which could be considered to be permanent structures, and other temporary structures that may impede public access and recreational opportunities, as further described below, and represent increasing encroachments of development on the sandy beach, inconsistent with other Chapter 3 policies, as well. These unpermitted improvements and placement of accessories are a privatization of sandy beach area and include:

- 1) large, white storage tent located on the northern seaward end of the existing tennis courts
- 2) a sand volleyball court seaward of the existing tennis courts, which appears to have been constructed between 1989 and 2002

- 3) "private property signs" seaward of the land lease areas, encroaching onto the public beach
- 4) A 4 ft. high green sand fence located approximately 3 ft. seaward of the chain-link fence surrounding the tennis courts for a length of 40 ft., thus expanding the private beach club use area by approximately 120 sq. ft.
- 5) medium sized white tent located within the unpermitted sand volleyball court
- 6) shade structures located adjacent to the tennis courts
- 7) two playground structures on sandy beach area
- 8) bocce ball court on sandy beach area
- 9) hut that is supported with a foundation (concrete patio) and used as a cabana on the sandy beach area
- 10) series of palm trees located along the leased land parcel boundary line⁴
- 11) chain link fence seaward of the sand volleyball court
- 12) Placement of a storage shed seaward of the volleyball court

Installation of temporary structures and placement of accessories may be consistent with the State Land Commission lease for the leased parcels but is not consistent with the public access and recreational policies and the visual protection policies of Chapter 3 of the Coastal Act. Further, these temporary structures were installed without a coastal development permit. Installation and construction of these structures as unpermitted development is inconsistent with past Commission approvals. CDP 5-12-130 included a condition restricting future improvements that may ordinarily be exempt and required the Beach Club to apply for an amendment for any new improvements. The construction of structures on the leased lands and encroachment of development onto the sandy beach area- particularly without a CDP and prior approvals from the State Lands Commission and/or State Parks- may stymie the ability of the leased lands (which are held in public trust) to revert back to public beach recreation area.

Furthermore, development in the leased land area (permitted or otherwise) may also precipitate the de facto privatization of public beach recreation area. This is already noticeable on the project site, where the sand volleyball court with associated fencing, a storage shed, chain-link fencing, and a series of palm trees have been placed without a permit less than 50 feet from the Marvin Braude Bicycle Trail. Additionally, the site contains unpermitted "private property" signage located near the bike trail, despite the fact that there is a strip of beach approximately 20 feet wide open to the public between the leased parcels and the bike trail, further privatizing the public beach area. Although

⁴ Unpermitted development not addressed in project description

the leased land parcels are rented to the Beach Club for exclusive use, the leased land is still not private property and is misleading to the public. Private property signs should only be installed on the actual private property which is located just seaward of the beach club facility. Although the leased land area ends approximately 20 ft. from the bicycle trail, the area between the leased land area and the bicycle trail is in effect privatized because the general public would likely feel uncomfortable recreating near the private development. If left unchecked, public recreation area across the landward side of the Marvin Braude Trail could be lost due to the unease of the general public to recreate near the Beach Club. In addition, the perceived privatization of the entire area landward of the bicycle path may deter the public from utilizing the portion of the bicycle trail in front of the project site.

To address the unpermitted development and the violation of the past conditions of approval, the applicant has proposed to remove the following improvements: 1) the sand volleyball court; 2) the white tents located within the tennis court and the sand volleyball court; 3) the green chain-link fence surrounding the sand volleyball court; 4) the unpermitted wooden wind fence 3 feet seaward of the volleyball court; 5) the storage shed; 6) the private property signs and 6) the hut with concrete foundation on land lease parcel.

Furthermore, the applicant has requested an after-the-fact approval to retain the following unpermitted improvements: 1) two shade structures adjacent to the tennis courts at 201 Palisades Beach Road; 2) a bocce ball court located at 201 Palisades Beach Road; 3) two playground structures located at 201 Palisades Beach Road; 4) a series of palm trees planted along the boundary of the leased land parcel and the public beach.

Commission staff has reviewed the list of identified unpermitted development to determine whether any of the development could be approved after-the-fact.

Staff has determined that the bocce ball court and the two playground structures and the two shade structures may be approved after the fact because they are improvements located on private property that would ordinarily be considered temporary structures and are not inconsistent with the visual protection policies of Chapter 3 (to be explained later). Because they are located on private property and do not impede access to public beach, these improvements do not have impacts to public access and recreation. Additionally, for consistency with Coastal Act sections 30211 and 30253, pursuant to the conditions of approval, if the site is subject to coastal hazards in the future or if there is a migration of public tidelands, these improvements may need to be removed.

The applicant has indicated that the unpermitted palm trees were planted as a beautification measure in both the private and leased Beach Club parcels. The palm trees are comprised of several different species and are not intended to serve as a unified partition demarcating the leased lands area as private property. Staff is recommending approval of the palm trees; however, the palm trees may be required to

be removed if the State Lands Commission does not approve them. The palm trees do not have a negative impact on public access.

The applicant is proposing to remove the unpermitted “private property” signs seaward of the leased land areas (with a CDP from the City of Los Angeles and permission from the State Land Commission to undertake development located on a public beach, outside of a leased area). The applicant proposes to use temporary sandwich board signs within areas of the leased parcels during periods when the Beach Club is using the leased land for events or when summer camp is operating. The proposed temporary signs would point out the areas where the leased lands are being used by club members for events but would not denote any private property areas. Finally, the applicant proposes the use of temporary cones/ small marker flags during children’s events to delineate the areas where the events would occur. These items and signage would promptly be removed at the conclusion of the event. If the informational signage is temporary in nature, is promptly removed when not in use, and if the signs do not attempt to delineate private property or otherwise impede public access to the State tidelands or vertical/horizontal coastal access routes, then they can be found consistent with Chapter 3 policies. Thus, **Special Condition 2**, as described above, requires the applicant to provide a final signage plan consistent with the temporary signs described above for event use only, for the review and approval by the Executive Director before a CDP can be issued for this project. Only as conditioned, will the signs be consistent with the public access and recreation policies of Chapter 3.

The sand volleyball court has been constructed as a permanent amenity less than 50 ft. from the public bicycle path. Not only does this unpermitted structure spur the privatization of public beach area as explained above, but it also inhibits the growth of a sand dune that has formed adjacent to the court.⁵ Further, the addition of the sandy volleyball court is an encroachment past the boundary of the leased lands. Therefore, this court cannot be approved. Accordingly, the applicant is proposing to remove this unpermitted development, and as conditioned (with a CDP from the City of Los Angeles and permission from the State Land Commission to undertake development located on a public beach, outside of a leased area) the removal is consistent with the public access and recreation policies of the Coastal Act.

The hut located on lease parcel PRC 7031 functions as a cabana for Beach Club members. This structure has a concrete foundation and is considered a permanent structure on the sand. This structure is not consistent with the provisions of the leased land agreement (which does not allow permanent structures on the leased lands) and leads to a perception of privatization, which has significant impacts on public access and recreation as described above. The applicant is proposing to remove the hut and remove the concrete foundation, and the Commission finds that such removal is necessary for consistency with the public access and recreation policies of Chapter 3.

⁵ More information in Section G: Biological Resources

Although the chain-link fence surrounding the tennis court is pre-Coastal (legally constructed prior to January 1, 1977, the effective date of the Coastal Act), the green wind fence located seaward of the tennis courts was constructed after January 1, 1977, without a valid CDP. In past actions, the Commission has prohibited the construction of fences and encroachments on the sandy beach due to their adverse impact on public access. In this case, a second fence may reinforce the de facto privatization of public trust land. The applicant is proposing to remove the unpermitted green wind fence. In its place, the applicant is proposing to construct an approximately 3-4 ft. high wind barrier directly adjacent to the pre-Coastal chain link fence. However, as stated previously, any future development – including fencing – that encroaches even minimally further seaward on the leased land parcels could exacerbate de facto privatization of publicly-owned parcels and could adversely impact lateral public coastal access. Therefore, the Commission finds the proposed new fencing on the leased land parcels inconsistent with the public access and recreations policies of the Coastal Act. However, as conditioned per Special Condition 1, the applicant can submit plans for the review and approval of the Executive Director, to modify the existing chain-link fence surrounding the tennis courts to install a sand screen no more than 48-in. high.

For the reasons stated above, it is important to limit the extent of development on the leased lands to minimize the effects of de facto privatization of public recreation area. The Commission therefore imposes **Special Condition 1**. This condition requires the applicant to submit revised final plans to remove the following unpermitted permanent development per the applicant's proposal: 1) the sand volleyball court; 2) the white tents located within the tennis court and the sand volleyball court; 3) the green chain-link fence surrounding the sand volleyball court; 4) the unpermitted wind fence; and 5) the hut with the concrete foundation. The unpermitted development proposed to be removed would not be permitted under CDP No. 5-19-1212 and may be subject to additional action from the Commission's Enforcement Division.

As mentioned above, the proposed project is an intensification of the Beach Club facilities. Intensified private club activity (through more members and/or more indoor/outdoor facilities) may add to the perception that the entire area landward of the bicycle path is private, even though the entire beach (including the leased land areas) is held in public trust. This can be exacerbated if the Beach Club utilizes "private property" signs in the leased land area. Therefore, the Commission also imposes **Special Condition 2**, requiring a signage plan before a CDP can be issued. Any signs that the Beach Club proposed cannot purport to carve out a boundary between lands held in the public trust and privately-held land.

D. Unpermitted Development

Violations of the Coastal Act have occurred on the newly acquired neighboring parcel, 237 Palisades Beach Road, including the following unpermitted development: construction of an 18-space parking lot, street lamps, and a 7 foot high privacy fence that extends approximately 69 feet on the seaward side of the parking lot; construction of a 1,623 square-foot paved asphalt area adjacent to the main building's kitchen storage area with six storage sheds and a perimeter fence for the paved area;

construction of an approximately 1,225 sq. ft. wood and concrete patio adjacent to and connected to the main Beach Club structure. The patio includes two unpermitted trellis covers on the north and south ends of the property. The north trellis covers approximately 216 square feet of area, while the south trellis covers approximately 288 square feet of area. In addition, aerial photographs from the California Coastal Records Project indicate the unpermitted development described above occurred in the timeframe between 2007 and 2013, subsequent to the Beach Club's purchase of the parcel in October 2006 ([Exhibit 4](#)).

Additionally, unpermitted development has occurred at 201 Palisades Beach Road and the seaward leased parcels, including: 1) a large, white storage tent located on the northern seaward end of the existing tennis courts; 2) a sand volleyball court seaward of the existing tennis courts; 3) a green sand fence located approximately 3 ft. seaward of the chain-link fence surrounding the tennis courts, expanding the private beach club use area by 3 feet; 4) a medium sized white tent located within the sand volleyball court; 5) a green chain-link fence that surrounds the sand volleyball court; 6) shade structures located adjacent to the tennis courts; 7) two playground structures on sandy beach area ; 8) a bocce ball court on sandy beach area; 9) a hut that is supported with a foundation (concrete patio) and used as a cabana on the sandy beach area; 10) a series of palm trees located along the leased land parcel boundary line; 11) a chain link fence surrounding and partially seaward of the sand volleyball court; 12) a storage shed seaward of the unpermitted sand volleyball court, and 13) "private property" signs located seaward of the leased parcels on the public beach.

All development within the coastal zone (regardless of whether the subject property is located on a beach or not) requires a CDP unless the requested action is determined to be exempt from permit requirements. The developments listed above are not exempt from permit requirements pursuant to Section 30610 of the Coastal Act and Title 14, Section 13253(b)(1) of the California Code of Regulations. Further, past Commission approval of CDP 5-12-130 included a condition restricting future improvements that would ordinarily be exempt and required the Beach Club to apply for amendment for any new improvements.

The applicant is requesting after-the-fact approval of a portion of the unpermitted development and is proposing to remove a portion of unpermitted development, as described above.

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 does not result in resolution of the violations described above. Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations, nor does it constitute an implied statement of the Commission's position regarding the legality of development, other than the development addressed herein, undertaken on the subject site without a coastal permit.

E. Hazards

Section 30253 of the Coastal Act 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.”

Section 30253 of the Coastal Act requires that new development minimize risks to life and property in hazardous areas, including areas subject to flooding. New development must also not significantly contribute to erosion or destruction of the site or surrounding area or require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The proposed project raises potential hazards concerns related to the project site’s location on an oceanfront lot, as well its location in a low-lying area that is inherently vulnerable to flooding from ocean waters. Thus, potential hazards issues that must be addressed include the potential for erosion, flooding, wave runup, and storm hazards associated with oceanfront development, as well as the risks of locating development in an area that is currently vulnerable to flooding. Both of these hazards concerns may be exacerbated by sea level rise that is expected to occur over the coming decades. These hazards issues are discussed more fully below.

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. Recent observations of sea level along parts of the California coast have shown some anomalous trends; however, there is unequivocal evidence 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. On November 7, 2018, the Commission adopted a science update to its Sea Level Rise Policy Guidance. This document provides interpretive guidelines to ensure that projects are designed and built in a way that minimizes sea level rise risks to the

development and avoids related impacts to coastal resources, consistent with Coastal Act Section 30253. These guidelines state, “to comply with Coastal Act Section 30253 or the equivalent LCP section, projects will need to be planned, located, designed, and engineered for the changing water levels and associated impacts that might occur over the life of the development.” The most recent projections in the statewide sea level rise guidance indicate that sea levels in this area may rise between 5.5 feet and 6.8 feet by the year 2100, though there is a risk of much more significant sea level rise depending on various uncertainties, including the dynamics of ice sheet loss. The projection is given in a range largely because researchers cannot know exactly how much greenhouse gases we will continue to emit over the coming decades – large-scale curtailment of greenhouse gas emissions would keep sea level rise towards the lower end of the projections, while “business as usual” emissions scenarios would result in the higher end of the projections. Because the world has continued along the “business as usual” scenario (and data suggests temperatures and sea level rise are tracking along the higher projections), the Ocean Protection Council and the Natural Resources Agency have continued to recommend that we avoid relying on the lower projections in planning and decision-making processes.

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.

On the California coast, the effect of a rise in sea level will be the landward migration of the intersection of the ocean with the shore, which will result in increased flooding, erosion, and storm impacts to coastal areas. For fixed structures on the shoreline, such as a seawall, an increase in sea level will increase the inundation of the structure. More of the structure will be inundated or underwater than is inundated now, and the portions of the structure that are now underwater part of the time will be underwater more frequently. Accompanying this rise in sea level will be an increase in wave heights and wave energy. Along much of the California coast, the bottom depth controls the nearshore wave heights, with bigger waves occurring in deeper water. Since wave energy increases with the square of the wave height, a small increase in wave height can cause a significant increase in wave energy and wave damage. Combined with the physical increase in water elevation, a small rise in sea level can expose previously protected back shore development to increased wave action, and those areas that are already exposed to wave action will be exposed more frequently, with higher wave forces. Structures that are adequate for current storm conditions may not provide as much protection in the future.

Therefore, there is a high degree of uncertainty regarding future impacts of sea level rise at the project site, which is on the Santa Monica State Beach, not only caused by the uncertainty of global sea level rise projections, but also by uncertainty related to the

long-term effectiveness and feasibility of sand replenishment, as well as the potential for changes in coastal management approaches within the littoral cell, which could significantly impact sediment transport in the area. Future impacts from sea level rise may include not only increased hazards at the project site, but also loss of public beach area within Santa Monica and the City of Los Angeles. These impacts will be further evaluated and addressed in Santa Monica's LCP planning process, which is currently underway.

Coastal Hazards and Shoreline Protection

The Coastal Act strongly discourages shoreline protective devices to protect oceanfront development because such structures generally cause adverse impacts to coastal resources and can constrain the ability of the shoreline to respond to dynamic coastal processes. As a sandy beach erodes, the shoreline will generally migrate landward toward the structure, resulting in a reduction and/or loss of public beach area with no increase of the landward extent of the beach. A beach that rests either temporarily or permanently at a steeper angle, under natural conditions, will have less horizontal distance between the mean low water and mean high water lines, which narrows the beach sandy area available for public access. Shoreline protective devices also result in a progressive loss of sand because shore material is not available to nourish the nearshore sand bar. The lack of an effective sand bar can allow such high wave energy on the shoreline that sand materials may be lost offshore, where it is no longer available to nourish the beach. This also affects public access through a loss of sandy beach area. Shoreline protective devices such as revetments, seawalls, and bulkheads cumulatively affect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent beaches. Such a protective structure is often placed on public land rather than on the private property it is intended to protect, resulting in a physical loss of beach area formerly available to the general public. In general, shoreline protective devices are not attractive, can detract from a natural beach experience, and adversely impact scenic public views. Shoreline protective devices can also prevent the natural inland migration of public lands (whether submerged lands, tidelands, or public trust lands) in areas where they are not adjacent to adjudicated property lines. Shoreline protective devices, by their very nature, tend to conflict with 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 protective devices, such as seawalls, revetments, and groins, can create adverse impacts on coastal processes, Coastal Act Section 30253 specifically requires that new development minimize risk to life and property in areas of high flood hazards and 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," including the natural shoreline and seacliffs. This limitation is particularly important when considering new development, such as in this case, because if it is known that a new development may need shoreline protection in

5-19-1212 (The Beach Club of Santa Monica)

the future, it would be unlikely that such development could be found to be consistent with Section 30253 of the Coastal Act. Therefore, the Commission’s action on this project must consider the effects of wave uprush, flooding, and storm events (with sea level rise considerations) on public access and recreation along the shoreline.

The Commission typically considers a building to be “new development” once it is subject to a remodel of 50% or more of the existing square footage which includes structural changes, or once the building is subject to an addition that expands the floor area by more than 50%, or once the entire structure is redeveloped, or some combination thereof.

In this case, the Beach Club has undergone incremental changes overtime, including structural remodels and areas of new additions. The existing Beach Club structure is 32,000 square feet. Structural changes of 50% or more would occur once the threshold of cumulative additions and changes of approximately 16,000 square feet is reached. The following table details the known structural changes that the Beach Club has undertaken following the effective date of the Coastal Act in 1977.

CDP No.⁶	Project Description	Square Footage	Structural? (Y/N)
5-93-186	Reconstruct a dining room and construct new addition “grille”	Approx. 2,250 760	Y Y
5-81-502	New roof and new storage	Not available	Y
5-12-130	Demo and replace enclosed patio	2,700	Y
5-12-130-A1	Remodel and expand dining room	1,419	Y
5-19-1212	Remodel two kitchens	2,738 + 646	Y
	Remodel service area	2,159	Y
	New service area enclosed	1,837	Y

⁶ This is not an exhaustive list of changes to the Club overtime. More improvements may have been constructed or remodeled without a CDP.

	ATF new asphalt and accessory storage sheds	1,623	Y (accessory dev.)
	ATF new wood and concrete patio	1,225	Y (accessory dev.)

After the proposed project is constructed, the Beach Club will have approximately 14,509 square feet of cumulative structural changes over time (not including the 1,623 and 1,225 additional square feet of paved and patio areas constructed without a permit as these are not enclosed changes to the existing structure, and while the improvements include foundations, they are not interior habitable space for the principal structure).

The proposed project includes a seismic retrofit for the entire structure. A seismic retrofit is a structural change to the building; however past Commission action has not identified this improvement as contributing toward the 50% typical threshold that results in a structure being considered a redevelopment or a major remodel.

The change in status from a pre-Coastal development (or existing development) to a new development (triggered after a major remodel) can affect the structure's ability to be eligible for shoreline protection according to Section 30235 of the Coastal Act. While the Beach Club is currently considered a pre-Coastal, existing structure, any additional structural changes, additions or improvements could constitute a redevelopment and could affect the structure's eligibility for shoreline protection in the future. Additionally, the redevelopment threshold may impact the structure's non-conforming status with development standards required by the certified LUP, particularly height and FAR.

In this case, the proposed improvements to the Beach Club structure would not trigger the building to be considered "new development" as described above. However, this permit authorizes new development that would not be considered "existing" under section 30235. Therefore, the conditions of approval for the proposed project require that no future shoreline protection be constructed to protect the remodeled and addition areas and the exterior improvements (**Special Condition 5**). These areas are not entitled to protection in the future; however other portions of the Beach Club may be, unless or until a redevelopment occurs which would be triggered after the next addition or structural remodel of more than 1,491 square feet. In addition to consistency with Section 30253, a major remodel or redevelopment must conform to other policies of the certified LUP, and any non-conformities may need to be corrected at that time.

For this project, the applicant has submitted a Coastal Hazard and Wave Runup Study dated March 4, 2020 prepared by Geosoils, Inc. for the subject project. The study concludes that because there is a wide sandy beach (approximately 580 feet wide)

between the subject property and the Pacific Ocean, wave runup and overtopping will not significantly impact this site over the life of the proposed improvements. The future erosion rate due to sea level rise was estimated to be 40 ft. per foot of sea level rise, resulting in approximately 240 ft. of erosion over the life of the development with a medium-high risk aversion scenario of 6 feet of sea level rise. The report finds that the erosion rate would be consistent for an estimated sea level rise ranging from 1.4 feet to 6.15 feet. The study's analysis of CoSMoS found that the portions of the project site may be subject to flooding but noted that the flooding was not directly caused by the ocean directly in front of the project site. Instead, the study attributes the flood risk to a series of low-lying storm drains across the beach that could carve a path to allow ocean flooding. The report concludes that this flood risk would need to be mitigated by a regional approach in order to reduce the potential flooding impact at the project site.

However, as stated above, the most recent projections in the statewide sea level rise guidance indicate that under a high emissions, medium high risk aversion scenario, sea levels in this area may rise between 5.5 and 6.8 feet by the year 2100, and 6.8 feet of sea level rise was not analyzed in the applicant's hazards analysis. In addition, these projections have a level of uncertainty, as beaches are dynamic areas and our understanding of climate change and sea level rise is constantly evolving. Also, severe storms or high tides will compound the effects of sea level rise in the future. Therefore, the proposed new development, on beachfront property, may be threatened by sea level rise at some point in the future if the rate of erosion and wave uprush accelerates faster than projected or if there are changes in the frequency or effectiveness of beach nourishment activities or changes to sediment management in the area, which has been the general trend in sea level rise.

In order to analyze the project site for sea level rise impacts consistent with the Coastal Commission's Sea Level Rise Guidance, staff first followed the methodology outlined in the OPC's 2018 Sea level Rise document to establish a projected sea level range for the new development. The 2018 OPC guidance uses NOAA tide gauges, a projected project lifespan, and risk aversion scenario to estimate a sea level rise range. The sea level rise analysis assumed a 75-year projected lifespan for the project, consistent with the Commission's Sea level Rise Policy Guidance for residential development. According to the 2018 OPC update, the projected sea level rise range for the project site is tied to the Santa Monica NOAA Tide Gauge. This tide gauge estimates a range between 5.5 and 6.8 feet of sea level rise by 2100 (which falls within the 75-year projected lifespan for the project). With regard to the risk-aversion scenario, both the Commission's Sea level Rise Policy Guidance and the OPC documents recommend a medium-high risk scenario for commercial developments. Under a 75-year projected lifespan, a medium-high risk scenario, and the project's location within the Santa Monica NOAA tide gauge, staff analyzed a scenario of 6.8 feet of sea level rise within the project vicinity.

The CoSMoS model may be used to analyze the project site's vulnerability to sea level rise impacts. With a 6.6-foot sea level rise scenario (the closest available option in the model that was within the medium high risk aversion sea level range) and a 100-year storm scenario to represent the worst-case scenario, the project site is not anticipated to

be subject to coastal erosion or wave uprush. Like the Geosoils report, the CoSMoS analysis did show the project site to be subject to flooding, albeit not as a direct result of rising ocean levels seaward of the project site. As discussed earlier, coastal areas are dynamic environments and it is difficult to predict with certainty how any particular project site will be impacted.

The project, which includes various improvements to an existing pre-Coastal structure, does not constitute a new replacement structure because less than 50 percent of the structural elements are being replaced or have been replaced (as described above.) However, the new development and some after-the-fact development authorized by this permit are not entitled to shoreline protection. As such, the Commission imposes **Special Condition 5** to confirm that the applicant is not entitled to shoreline protection for the development approved by this permit, including the remodeled kitchen area, addition area, and area with a new mat foundation. In addition, the applicant would be required to remove the approved development 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 bluff or shoreline protective devices. In addition, the public trust boundary may migrate landward in response to rising sea levels. If the public trust boundary does migrate landward and encompasses the development approved under CDP No. 5-19-1212, the development would need to be removed pursuant to **Special Condition 5**.

The hazards analysis provided by the applicant's coastal engineering consultant maintains that, even with expected future sea level rise, the proposed development is not expected to be threatened by coastal hazards and is not expected to need shoreline protection over the life of the development. However, given the dynamic nature of coastal beaches, as well as the long-term uncertainty of sea level rise models, it is important that the risks of developing on this beachfront lot are borne by the applicant who will benefit from the private development, and not the public. In addition, the proposed development is located in an area where dynamic and unpredictable coastal hazards exist that could adversely impact the development should the applicant's predictions of flooding and sea level rise prove to be inaccurate. Therefore, the Commission also imposes **Special Condition 6**, which requires the applicant to assume the risk of development within an area with a known vulnerability to coastal hazards, including, but not limited to, coastal flooding.

Therefore, as proposed and conditioned by the Commission, is consistent with Section 30253 with regard to coastal hazards.

F. Visual Resources

Coastal Act Section 30251 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.

In past permit actions for the area, the Commission has consistently limited the height of development to 50 feet for all structures in the North Beach subarea. Santa Monica currently limits development to a maximum height of 40 feet, but also requires projects to conform to a view envelope to protect views from the Palisades Park bluffs. The view envelope is measured from a height of 30 feet at the beach setback line to a point 5 feet above the Palisades Park bluff.

The proposed project includes a 40-ft. long extension of the existing lower gable roof on the southern side of the building to enclose the storage, maintenance, and employee service areas. The highest height of the current lower gable roof measures approximately 27 feet above grade level. The 40-ft. long extension will maintain the 27 foot height along the length of the extension. The applicant has also provided view analysis documents illustrating that the roofline extension will not impact coastal views that can be seen from the Palisades Park bluff (located landward of the Pacific Coast Highway right-of-way).

The height of the proposed roof extension is lower than the Commission's previously imposed 50-foot maximum height limit for the North Beach subarea and conforms to the City's view envelope restriction. The proposed replacement structure, since it is located adjacent to the existing main building and on the western or seaward side of the main building, will not be visible from the roadway (Palisades Beach Road), and will not interfere with any coastal views currently available from the roadway. The proposed roof extension will be visible from Pacific Coast Highway as one looks seaward, and from the beach as one looks landward. However, the structure will blend with the existing main building and will not increase the footprint of the existing building.

The parking lot on the south end of the subject lot includes a 7 foot high painted wood plank fence to provide privacy for the open space areas of the Beach Club. The 7-foot-high unpermitted privacy fence, as proposed by the applicant, blocks coastal views for pedestrians and drivers traveling in either direction on Pacific Coast Highway. Although the North Beach Santa Monica portion of PCH is currently visually degraded (blocked by residential and commercial development for a stretch of nearly one mile), the Commission recognizes the need for new development to improve views wherever possible.

The large tent in the tennis court is a temporary structure in itself, but its use as a storage area essentially renders the intent of the tent as a "permanent-use" structure. As will be detailed below, the tent does not protect views to and along the coast and also precludes the potential to create a view corridor along the northern edge of the

project site. The smaller tent in the sand volleyball court (which the applicant indicates is used for summer youth programming) similarly has a visual impact. Therefore, these tents are inconsistent with the visual protection policies of Chapter 3. The applicant is proposing to remove this unpermitted development.

Commission staff has spoken with the applicant about including a view corridor across the property as part of the project. [\(Exhibit 5\)](#). The applicant has proposed two view corridors to the north and south of the main Beach Club facility for consideration. The south view corridor will begin at the southern property line and extend north for 25 feet. The north view corridor will begin at the northern end of the Main Beach Club facility and extend north for 49 feet. The corridors will be designed to provide sand and blue water views from various angles. In keeping with the intent of the view corridor, the applicant has also proposed to remove the permanent shade structures and fence mesh covering that are currently in the path where the north view corridor will be established.

To ensure that these view corridors are maintained, the Commission imposes **Special Condition 3**, which details the open fence design and procedures that the applicant must follow to maintain the view corridors. Permanent fixed structures, new fences, vegetation, and large temporary structures (i.e. tents, cabanas, etc.) are not allowed within the view corridors. However, the condition does not preclude the daily use of umbrellas or other thin removable/retractable shade structures, provided that the structures are only put up at the request of the guests, and removed when not in use and when the Beach Club facilities are closed (a policy that is already in use by the Beach Club). The applicant has requested authorization to install a 3-foot wide, 1-inch thick, horizontally-aligned retractable shade structure adjacent to the paddle-tennis courts within the 49 ft. north view corridor. This structure would be allowed, provided that it is temporary and does not rely on a foundation. The applicant has also indicated a desire to install a clear windscreen to provide protection from the wind for beach club guests. However, no plans have been submitted for consideration with this permit application. **Special Condition 13** allows the possibility for a windscreen to be implemented as part of the fence design, provided that the windscreen meets the listed parameters to meet the objective of providing a view corridor that is free from significant visual obstructions. **Special Condition 3** also outlines the parameters of visually permeable fencing that shall be utilized in the view corridors. The wrought iron fence proposed for the southern view corridor shall be no taller than 42 inches, with pickets/rods no thicker than 0.5 inches, and 6-inch minimum picket/rod spacing. Furthermore, if the applicant wishes to carry out additional development in the future, the applicant must obtain a coastal development permit for the development, as stated in **Special Condition 10**. In addition, the Commission imposes **Special Condition 11**, which requires the applicant to record a deed restriction against the property that provides the current and any future owners with notice of all of the conditions of this permit, including the requirement to maintain the two view corridors.

As conditioned, the proposed project is consistent with Section 30251 of the Coastal Act.

G. Marine Resources and Water Quality

Section 30230 of the Coastal Act states, in pertinent part:

Marine resources shall be maintained, enhanced, and where feasible, restored.

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.

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, surf, 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. In addition, the use of machinery in coastal waters not designed for such use may result in the release of lubricants or oils that are toxic to marine life. 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. Soil erosion can occur naturally and may be accelerated during grading and construction when the area cover is removed and bare soil is disturbed. Precautions shall be taken to assure that construction runoff and storm water run-off is filtered prior to leaving the site, and Best Management Practices shall be implemented to ensure that secondary construction-related impacts to biological resources are minimized during construction. The Commission therefore imposes **Special Condition 9** to require that construction materials, debris, and mechanized equipment management does not result in degradation of coastal resources or a discharge of debris and other potentially harmful materials into coastal waters. Additionally, **Special Condition 6** requires that if any portions of the development fall to the beach or are submerged before they are removed, the applicant, or its successors, must remove all recoverable debris associated with the development from the beach and ocean and properly dispose of the material in an approved disposal site and relocate any salvageable portions of the development inland away from the ocean. This condition also requires the applicant, or its successors, to seek a coastal development permit for this work, in part to ensure protection of marine resources and water quality. The Commission finds the proposed project, as conditioned, is consistent with Sections 30230 and 30231 of the Coastal Act.

H. 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.

The proposed project is located along a sandy beach, and consists of five parcels, two of which are leased to the Santa Monica Beach Club by the state. One of the leased parcels (PRC 7032) is developed with a portion of the club's tennis courts, a sand volleyball court, a large tent, and an approximately 3-ft. tall green wind fence that encloses the tennis courts and volleyball courts (**Exhibit X**). A 0.27-acre vegetated dune is present adjacent to the tennis courts. Aerial images of the project site show that the dune started forming at its current location at some point between 1987 and 2002 and was likely formed from sand accumulation along the unpermitted sand fence seaward of the tennis courts. The dune is largely bounded by the Marvin Braude Bicycle Path, the sand volleyball court, the tennis courts, and the public beach access path. However, the dune also has appeared to have expanded to sparse areas seaward of the unpermitted sand volleyball court (**Exhibit X**).

Coastal dunes form in areas of the California coast that have ample sand supplies, strong winds and relatively flat topography. In these places, plants growing along the coastal strand slow the movement of blowing sand. The plants grow taller as sand deposits build up around them and eventually small foredunes are created. Three native plant species are considered to be important in the early phases of this process: beach saltbush (*Atriplex leucophylla*), beach bur (*Ambrosia chamissonis*) and red sand verbena (*Abronia maritima*). Over time, more sand may be trapped and the foredunes can build up and coalesce to form more stable dune ridges that are often seen windward of backdune or dune swale areas. Once the system shifts from an unstable sheet of sand (subject to rapid movement under the influence of strong winds) to a vegetated habitat with dune topography, a number of other native dune plants can colonize the habitat including beach evening primrose (*Chamissonia cheiranthifolia*), beach morning glory (*Calystegia soldanella*), and several species of shrubs.

Commission staff received a biological assessment of the dune that was prepared by Glenn Lukos Associates on July 28, 2020. The biological assessment notes that the dune ranges from two to six feet in height, is located within a highly disturbed area adjacent to a heavily used bicycle path, and that the vegetated areas of the dune contain the following plants: Fig Marigold (*Carpobrotus edulis*), Ripgut Brome (*Bromus diandrus*), European Sea Rocket (*Cakile maritima*), Beach Burweed (*Ambrosia chamissonis*), and Beach Evening Primrose (*Chamissoniopsis cheiranthifolia*). The Fig Marigold and Ripgut Brome, both non-native and invasive species, make up the vast majority of the vegetation on the dune area, while Beach Burweed and Beach Evening Primrose -- the only two native species within the dune area -- make up only 3 percent

of the total vegetation on the dune. Overall, the biological assessment did not identify any special-status flora or fauna within the dune. Furthermore, the biological assessment concludes that the subject dune is not likely part of the larger dune system that is present within the Pacific Palisades region.

The Commission's ecological technical staff has reviewed the biological assessment prepared for the dune. Although the dune was formed only within the last twenty years, the dune's morphology (the presence of hollows or depressions and hummocks or mounds which supports shorebirds) and the presence of Beach Burweed and Evening Primrose renders the dune as environmentally sensitive habitat area (ESHA) that should be protected. The sand volleyball court, which is an unpermitted structure, appears to deter the dune from naturally expanding across the length of the tennis courts. The applicant's proposal to remove the sand volleyball court and its associated structures (the tent and fencing surrounding the tent) means that the current dune would have an opportunity to expand laterally adjacent to the tennis courts. Furthermore, the applicant's proposal to remove the second wind protection fence would enable the dune to expand further by migrating landward until it meets the chain link fence surrounding the tennis courts, which may have a 48-in. windscreen to prevent sand from blowing into the courts. To ensure consistency with section 30240, the Commission imposes **Special Condition 1 and Special Condition 7**. **Special Condition 1** requires the applicant to remove the sand volleyball court, the associated tent, and the picket wind protection fence, pursuant to the applicant's proposal. **Special Condition 7** requires annual monitoring photos of the dune and the rest of the leased lands areas to evaluate the overall health of the dunes and ensure that adjacent temporary development does not impact the dunes or restrict public access as described above. These activities are not expected to harm the dunes; rather, removal of these structures will encourage some expansion of the sensitive dune habitat. The proposed removal of these unpermitted structures shall be done in such a way so as to avoid staging or construction access in the area of the dune and avoid any direct impacts to the dune pursuant to **Special Condition 9**. As conditioned, the proposed project is consistent with Section 30240 in that development in areas adjacent to the dunes shall be sited and designed to prevent impacts which would significantly degrade those areas.

I. 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 Coastal 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.

Two of the Beach Club's three privately owned parcels are located in the City of Santa Monica. Although Santa Monica does not have a certified Local Coastal Program (LCP), the City has a certified Land Use Plan (LUP). 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), and the Santa Monica Pier. On September 15, 1992, the City

of Santa Monica accepted the LUP with suggested modifications. The proposed project is located west of Ocean Avenue and is in the area excluded from the certified area of the Land Use Plan. Therefore, the standard of review for the portions of proposed development in this portion of the project area is Chapter 3 of the Coastal Act.

The remaining privately-owned parcel is located in the Pacific Palisades region of the City of Los Angeles. The Pacific Palisades area of the City of Los Angeles has neither a certified LCP nor a certified Land Use Plan. Therefore, the standard of review for proposed development in this portion of the project area is also Chapter 3 of the Coastal Act.

The Commission finds that the project, as proposed and conditioned, is in conformity with the Coastal Act Chapter 3 policies, and will not prejudice the ability of the City of Santa Monica or of the City of Los Angeles to prepare an LCP that is in conformity with Chapter 3 of the Coastal Act.

J. California Environmental Quality Act

Section 13096 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 Coastal Commission's review and approval of land use proposals has been certified by the Secretary of the Natural Resources Agency as the functional equivalent of environmental review under CEQA (14 Cal. Code of Regs. § 15251(c)).

The City of Los Angeles did not issue a CEQA determination yet. The City of Santa Monica Planning Department issued a CEQA Ministerial Exemption for the proposed project on September 26, 2017.

The preceding findings of this staff report, incorporated herein by reference, disclose the relevant coastal resource impacts of the proposed project. The proposed project has been conditioned in order to minimize and mitigate impacts to coastal resources consistent with Chapter 3 of the Coastal Act. The special conditions require the applicant to: 1) provide final revised plans to remove a portion of unpermitted development, identify unpermitted development that will not be approved pursuant to this coastal development permit; 2) provide a signage plan for the Beach Club site that will not restrict public access to state tidelands or any public access general easement areas; 3) receive a local approval from the City of Los Angeles for all portions of the project that occur within its jurisdiction; 4) receive State Lands Commission approval for any development that occurs in land lease parcel PRC 7032; 5) provide and maintain two view corridors that total 69 feet in length; 6) waive future rights to shoreline protection for the proposed new improvements to the Santa Monica Beach Club; 7) assume the risk of developing in an area that is inherently vulnerable to sea-level rise

impacts; 8) provide annual monitoring for the leased land parcels; 9) require a CDP for any future improvements on any of the private or leased land parcels; and 10) record a deed restriction to memorialize the special conditions of this permit.

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect, either individual or cumulative, 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

Coastal Development Permit Application No. 5-19-1212 and associated file documents.