

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT
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F16

Prepared December 2, 2022 for December 16, 2022 Hearing

To: Coastal Commissioners and Interested Persons

From: Dan Carl, Central Coast District Director

Subject: Central Coast District Director's Report for December 2022

The following coastal development permit (CDP) waivers, immaterial CDP amendments, immaterial CDP extensions, emergency CDPs, and LCP certification reviews for the Central Coast District Office are being reported to the Commission on December 16, 2022. Pursuant to the Commission's procedures, each item has been appropriately noticed as required, and each item is also available for review from the Commission's Central Coast District Office in Santa Cruz. Staff is only reporting any emergency CDPs and LCP certification reviews, is asking for the Commission's concurrence on the other items in the Report, and will report any objections received and any other relevant information on these items to the Commission when it considers the Report on December 16th during the hybrid virtual/in-person hearing.

With respect to the December 16th hearing, interested persons may sign up to address the Commission on items contained in this Report prior to the Commission's consideration of the Report. The Commission can overturn staff's noticed determinations for some categories of items subject to certain criteria in each case (see individual notices for specific requirements).

Items being reported on December 16, 2022 (see attached)

CDP Waivers

- 3-22-0953-W, Monterey Groundwater Cleanup (Monterey)

CDP Amendments

- 3-82-199-A10, Carmel Area Wastewater District Annexation (Monterey County)
- 4-91-031-A1, Dutchman's Harborwalk (Morro Bay)
- A-3-SCO-98-101-A1, Davenport Parking Lot (Davenport)

CDP Extensions

- A-3-SLO-00-040-E14, Schneider SFD Extension (Harmony Coast)
- A-3-MCO-19-0042-E1, Valley View SFD Extension (Monterey County)

Emergency CDPs

- G-3-22-0033, Carmel River Lagoon Sandbar Management (Monterey County)

LCP Certification Reviews

- None

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NOTICE OF PROPOSED PERMIT WAIVER

Date: December 2, 2022
To: All Interested Parties
From: Kevin Kahn, Central Coast District Manager
Mariana Filip, Coastal Planner
Subject: Coastal Development Permit (CDP) Waiver 3-22-0953-W
Applicant: Prologis, Inc.

Proposed Development

The proposed project is a temporary groundwater remediation effort to clean a historically contaminated 18,000-square-foot subsurface plume near the intersection of Del Monte Avenue and Figueroa Street, and another 2,000-square-foot subsurface plume near the entrance of Municipal Wharf No. 2 in the City of Monterey.¹ Each of these larger subsurface plumes contain dissolved contaminants such as diesel and gasoline referred to as light nonaqueous-phase liquids (LNAPLs), but there are also smaller plumes with free-floating contaminants either within or near the larger plumes. The project involves: 1) installation of 1 inch-diameter PVC pipes connecting eight injection and extraction well heads to a temporary 2,000-square-foot enclosed aboveground treatment facility; and 2) surfactant injection and subsequent extraction of contaminated groundwater over a four-month period. The trenches will be backfilled and asphalted over. The contaminated water, once extracted, will be treated with carbon at the temporary onsite treatment compound and discharged to the sewer. At the end of the four-month period, the Applicant will remove the treatment compound. The subsurface pipes and well heads will remain in place for at least a few years to continue monitoring for contaminants until the Central Coast Regional Water Quality Control Board (RWQCB) has enough data to determine that the contaminants are no longer persisting.

Executive Director's Waiver Determination

Pursuant to Title 14, Section 13238 of the California Code of Regulations, and based on project plans and information submitted by the Applicant regarding the proposed development, the Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

¹ Historic use of the site includes a marine refueling station and other similar operations which led to releases of diesel fuel and gasoline, otherwise known as light nonaqueous-phase liquids (LNAPLs), into the groundwater. Various passive remediation efforts have occurred at the site since 2002. An initial round of surfactant injection and contaminated water extraction and treatment was conducted in 2020, and ongoing monitoring since that time indicated the necessity for additional remediation work.

The proposed project is a requirement of the RWQCB to complete ongoing groundwater remediation efforts at the project site. The primary source of the LNAPL release into the groundwater has been removed, but the continued presence of the contamination threatens adjacent Del Monte Beach and the Monterey Bay and Pacific Ocean given the proximity to these resources. Furthermore, the City of Monterey intends to improve the site as a public parking lot in the future and can only do so once groundwater remediation is complete. The proposed project will address the pollution risk and protect the coastal environment as well as allow for an important public access improvement to proceed. The project includes appropriate traffic control measures and public access during installation of the pipes, including multiple flaggers with radio communication to ensure minimal and temporary disruption to pedestrian and bicycle access along the adjacent Monterey Peninsula Recreation Trail. In addition, the project includes best management practices and good housekeeping measures during both installation of the pipes and throughout the remediation effort duration to prevent pollutant and sediment discharges including: saw-cutting only in dry weather and immediately vacuuming up any slurry; covering stockpiled soil with plastic sheeting during temporary storage on the property pending disposal; and placing straw waddles around any excavated materials as well as the entire treatment compound.

In sum, the project is an important groundwater remediation effort required and approved by the Central Coast RWQCB that will improve the coastal marine environment and adequately protects public access and coastal resources consistent with the Coastal Act.

California Environmental Quality Act (CEQA)

CEQA Section 21080.5(d)(2)(a) prohibits a proposed development from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the development may have on the environment. The City of Monterey, acting as lead CEQA agency, determined that the proposed project was categorically exempt from CEQA review pursuant to Section 15301 (as a minor alteration to existing facility with no expansion of use), and thus the City did not identify any significant adverse environmental effects from the proposed project.

The Commission's review, analysis, and decision-making process for CDPs and CDP amendments has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(f)). Accordingly, in fulfilling that review, this report has discussed the relevant coastal resource issues with the proposal and has concluded that approval of the proposed CDP waiver is not expected to result in any significant environmental effects, including as those terms are understood in CEQA.

Accordingly, it is unnecessary for the Commission to suggest modifications (including through alternatives and/or mitigation measures) as there are no significant adverse environmental effects that approval of the proposed CDP waiver would necessitate. Thus, the proposed CDP waiver will not result in any significant adverse environmental

effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A).

Coastal Commission Review Procedure

This waiver is not valid until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission on Friday, December 16, 2022, during the hybrid in-person and virtual Coastal Commission meeting. If four or more Commissioners object to this waiver at that time, then the application shall be processed as a regular CDP application.

If you have any questions about the proposal or wish to register an objection, please contact Mariana Filip (Mariana.Filip@coastal.ca.gov) in the Central Coast District office.

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NOTICE OF PROPOSED PERMIT AMENDMENT

Date: December 2, 2022
To: All Interested Parties
From: Kevin Kahn, Central Coast District Manager
Breylene Ammen, Coastal Planner
Subject: Proposed Amendment to Coastal Development Permit (CDP) 3-82-199
Applicant: Carmel Area Wastewater District

Original CDP Approval

CDP 3-82-199 was approved by the Coastal Commission on January 20, 1981 to authorize a series of improvements and upgrades to bring the Carmel Area Wastewater District's (CAWD) wastewater treatment plant (originally constructed in 1939) into compliance with water quality standards at the time. More specifically, the CDP authorized infrastructure upgrades to address problems from inadequately sized treatment capacity, including expanded capacity and construction of recycled water facilities meant to provide treated wastewater for a variety of uses, including to irrigate nearby golf courses. The 1981 CDP approval also included a series of conditions addressing the plant's operations, including service area boundaries, treatment capacity, flood management/coastal hazards (i.e., prohibiting levees, dikes, and other shoreline protective devices to protect the plant from flooding), public coastal access (i.e., requiring CAWD to offer an easement or enter into an agreement to allow a public trail along the Carmel River to the shoreline), and habitat preservation (i.e., requiring CAWD to develop a plan to protect riparian habitat located outside of the Plant's boundaries).

The CDP has been amended nine times since its initial approval to authorize various changes, including new wastewater treatment structures (e.g., new laboratory building, aeration basin, maintenance shop, digester, sodium bisulfite/hypochlorite facility, stormwater pump station, and an electrical service pad), a change in plant configuration (to relocate a previously approved open reservoir equalization basin on adjacent State Park-owned land to an onsite enclosed concrete structure), upgraded recycled water operations, and an increase in plant capacity (from 2.4 million gallons per day (mgd) to 4.0 mgd, with a 3 mgd dry weather capacity limit).

Proposed CDP Amendment

CDP 3-82-199 would be amended to allow for expansion of CAWD's service area to add approximately 326 mostly low-density residential-zoned parcels that cover

approximately 302 acres within the coastal zone.¹ Physical construction of the sewer infrastructure to serve the expanded area is not covered by this amendment and will require separate CDP(s). All parcels included in the annexation are currently developed with single-family residences and served by on-site septic systems, except one, for which a CDP application for a single-family residence is currently pending with Monterey County. The proposed annexation area is adjacent to CAWD's current boundaries and includes parcels which CAWD either anticipates or has received requests for sewer service connection due to failing or substandard onsite septic systems. The future expansion of sewer service to the parcels included in the proposed annexation is projected to increase wastewater treatment demand from 1.8 mgd to 1.9 mgd, well below the treatment plant's 3 mgd capacity. The Commission's reference number for this proposed amendment is **3-82-199-A10**.

Executive Director's Immateriality Determination

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations, the Executive Director of the California Coastal Commission has determined that the proposed CDP amendment is immaterial for the following reasons:

The proposed expansion of CAWD's jurisdictional boundaries will facilitate the transition of the included parcels from onsite private septic to public sewer service. The impetus for the boundary expansion is to correct deficient septic systems within existing developed residential communities. The septic systems in the proposed annexation area currently pose a significant risk to water quality, coastal resources, and human health. In 2009 the Monterey County Board of Supervisors adopted the Carmel Highlands Onsite Wastewater Management Plan and an associated study which identified that roughly 25 to 30 percent of the parcels in Carmel Highlands either border or are within 100 feet of a major stream or seasonal tributary, and that an estimated 10 to 15 such systems were found to be discharging varying amounts of effluent to groundwater through the area's fractured granitic bedrock, some of which has made its way to the Pacific Ocean. The proximity to freshwater resources as well as the presence of fractured bedrock presents ongoing risks to the coastal environment, particularly as shoreline erosion and bluff retreat, further exacerbated by sea level rise, will likely expose ocean waters to increasing numbers of aging septic systems in this area.

Additionally, the CAWD plant has adequate wastewater treatment capacity to serve the proposed annexation and the increased volume of wastewater will benefit CAWD's water recycling efforts as it currently struggles to produce adequate recycled water for nearby golf course irrigation due to recent reductions in wastewater volume as a result of water conservation efforts. Furthermore, the proposed annexation does not raise growth inducement concerns as all parcels that will be eligible for future service are already developed or will be developed in the near term (i.e., these are all residentially-zoned properties within existing developed communities).

¹ Monterey County Local Agency Formation Commission (LAFCO) approved the service area annexation on March 22, 2021.

Staff believes that this is an important project that will result in the protection and enhancement of coastal resources and public health. Staff further believes that the proposed amendment is consistent with the intent of the Commission's original CDP approval (and in fact furthers its coastal resource protection), as well as with the Coastal Act and the certified Monterey County Local Coastal Program.

California Environmental Quality Act (CEQA)

CEQA Section 21080.5(d)(2)(a) prohibits a proposed development from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the development may have on the environment. CAWD, acting as lead CEQA agency, prepared a mitigated negative declaration for the annexation which did not identify any significant adverse environmental effects.

The Commission's review, analysis, and decision-making process for CDPs and CDP amendments has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(f)). Accordingly, in fulfilling that review, this report has discussed the relevant coastal resource issues with the proposal, and has concluded that approval of the proposed immaterial CDP amendment is not expected to result in any significant environmental effects, including as those terms are understood in CEQA.

Accordingly, it is unnecessary for the Commission to suggest modifications (including through alternatives and/or mitigation measures) as there are no significant adverse environmental effects that approval of the proposed immaterial CDP amendment would necessitate. Thus, the proposed immaterial CDP amendment will not result in any significant adverse environmental effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A).

Coastal Commission Review Procedure

The CDP will be amended as proposed if no written objections are received in the Central Coast District office within ten working days of the date of this notice. If such an objection is received, the objection and the Executive Director's response to it will be reported to the Commission on December 16, 2022 at the Coastal Commission's hybrid in-person and virtual meeting in Long Beach. If three or more Commissioners object to the Executive Director's determination of immateriality at that time, then the application will be processed as a material CDP amendment.

If you have any questions about the proposal or wish to register an objection, please contact Breylen Ammen in the Central Coast District office at Breylen.Ammen@coastal.ca.gov.

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NOTICE OF PROPOSED PERMIT AMENDMENT

Date: December 2, 2022
To: All Interested Parties
From: Kevin Kahn, Central Coast District Manager
Susan Craig, Retired Annuitant
Subject: Proposed Amendment to Coastal Development Permit (CDP) 4-91-031
Applicant: Van Beurden Investments

Original CDP Approval

CDP 4-91-031 was approved by the Coastal Commission on August 13, 1991 and provided for modifications to an existing restaurant ("The Flying Dutchman" at 701 Embarcadero) and expansion of an adjacent structure to allow for an enlarged seafood market and a separate retail space (at 715 Embarcadero). CDP 4-91-031 also provided for construction of a public access Harborwalk¹ seaward of the restaurant and construction of an observation deck just upcoast of the restaurant and seaward of the seafood market/retail space, all located along the shoreline of Morro Bay in the City of Morro Bay in San Luis Obispo County.

Proposed CDP Amendment

The proposed project includes a series of improvements and enhancements to the Harborwalk on the bayside portions of the two structures, as well as some limited façade improvements on the structures themselves. The Commission's reference number for this proposed amendment is **4-91-031-A1**.

More specifically, most of the proposed project will take place at 715 Embarcadero (lease sites 80-81 and 80W-81W), which currently is developed with a single-story building that contains a fish processing plant and a retail shop, as well as a public observation deck and a wharf that is used to unload fish. The 701 Embarcadero site (lease sites 78-79 and 78W-79W) is developed with a restaurant (now the "Dutchman's Seafood House") and a portion of the bayside Harborwalk lateral access that extends throughout much of the seaward extent of the Embarcadero.

Currently the only bayside public access at 715 Embarcadero is the existing observation

¹ The Morro Bay Harborwalk is a public lateral accessway, generally 10 feet in width, on the bayside of the Embarcadero businesses and developments. It has long been a Coastal Act and LCP goal for the Harborwalk to provide a continuous public lateral access experience, and projects along the bayside of the Embarcadero are typically required to provide this public amenity, partially in recognition that the entire Embarcadero area consists of filled tidelands and is thus a public trust area. The Harborwalk provides spectacular views of the Bay, the sandspit, and Morro Rock, and is an extremely popular public accessway.

deck approved under the base CDP.² There is currently no continuous lateral Harborwalk access across this site, creating a gap where users of the Harborwalk on the upcoast Rose's Landing site or the downcoast Dutchman's restaurant site must detour vertically inland, then cross in front of the retail store (at 715 Embarcadero), and then head vertically back down to the Harborwalk. The proposed amendment would remedy this situation by filling this gap in public access in the Harborwalk. Specifically, the proposed project will remove the observation deck's roof cover and the associated windscreen and remove a "catwalk" that is seaward of the existing observation deck. The observation deck's existing wood decking and piling supports would be retained and new railings³ would be installed. An approximately 20-foot by 20-foot new Harborwalk section⁴ with similar railings would be constructed adjacent to the observation deck, which would then connect to an existing wharf at the upcoast end of the lease site. This 20-foot by 20-foot section would be supported by a single new coated-steel piling, which will either be hydraulically jettied into place or installed via the use of a vibratory hammer (an impact hammer will not be used).

The existing wharf, which has historically been used for unloading fish and has never been available for public access, would be reconfigured to remove its seaward-most highly dilapidated portion along with five existing dilapidated pilings and the small portion of the wharf that extends over the upcoast lease line. The remaining three wharf pilings would be repaired by installing a sleeve or epoxy jacket over the pilings.⁵ The reconfigured wharf would be available for public access except when fish unloading activities are taking place (the existing fish loading hoist on the wharf would be replaced with a new hoist).

An existing gate along the upcoast side of the retail/fish processing building would be removed, which would provide for new vertical public access along an existing paved walkway that would connect from the Embarcadero sidewalk to the reconfigured wharf and to the new downcoast and existing upcoast (Rose's Landing) portions of the Harborwalk. Trash receptacles will be installed along the new portion of Harborwalk. The project also includes new public access signs with the Commission's wave symbol that would be installed on the railings along the new Harborwalk and on the Embarcadero-facing side of the retail/fish processing building for the new vertical access. Signage at the wharf would clearly specify that public access to the wharf and the section of Harborwalk adjacent to the fish processing plant is available except during active commercial fish unloading operations, at which time Harborwalk users would be directed to existing vertical access. The wharf and this section of the Harborwalk will be reopened to public access immediately when fish unloading activities

² This observation deck has been used as private restaurant dining, in violation of the base permit condition as further explained below.

³ The new railings will be in a similar style to the existing metal railings located along the Dutchman Restaurant Harborwalk and the upcoast Rose's Landing Harborwalk to provide for a unified design aesthetic.

⁴ The landward half of this portion of Harborwalk would be constructed of either a composite material or of wood; the seaward half would be constructed of fiberglass to allow light to penetrate through to the Bay waters below, for the benefit of eelgrass.

⁵ The wharf demolition, piling removal, and pile sleeving work would be done via an offshore barge.

are complete.

A group of three tables and chairs and a separate single table and chair will be placed at two locations adjacent to the sidewalk on the streetside portion of 715 Embarcadero. The tables would be fixed to the concrete (so that they remain in their designated locations and do not shift into public walkways) and would include signage stating, "Public Seating – No Purchase Necessary." The project also includes repair of or, if necessary, replacement of any damaged powder-coated corrugated metal on the exterior of the Dutchman's Seafood House and the retail/fish processing building with similar façade materials and colors.

To resolve the violation on this site (i.e., previous use of the public observation deck for outdoor dining), the Applicant is proposing to provide significant additional improvements to public access. First, the Applicant will add a three-foot-wide public wharf cantilever (to provide for more wharf space) that will be constructed over the remaining wharf pilings. Next, the Applicant will install three benches along the seaward side of the new Harborwalk and reconfigured wharf, and two interpretive panels.⁶ Finally, the existing access connection between the upcoast end of the Harborwalk at 701 Embarcadero (the Dutchman's Seafood House site) and the observation deck at 715 Embarcadero is constrained by a narrow corner that is about five feet wide and makes public use and passage here difficult. The proposed project will add 20 square feet (five feet by four feet) of Harborwalk (constructed of fiberglass), which will expand the corner's width to 10½ feet and thus widen this pinch point for improved public access. New metal railings will also be installed at this corner and at an existing seaward-projecting "bump-out" of the Harborwalk in this area (the "bump-out" provides for public viewing of the Bay off of the main Harborwalk) to improve the ability of the public to use this area and to more clearly designate this area as part of the public access Harborwalk.

Executive Director's Immateriality Determination

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations, the Executive Director of the California Coastal Commission has determined that the proposed CDP amendment is immaterial for the following reasons:

The project will fill a significant gap in the City's popular lateral Harborwalk public access system to and along the Morro Bay estuary and includes public access to the existing wharf at this location for the first time. The new portion of Harborwalk will be 20 feet in width and the reconfigured wharf will be about 24 feet wide, which greatly exceeds the 10-foot Harborwalk width specified in the LCP's guidance. The project will further benefit public access along the Harborwalk by widening the narrow corner between the two sites and by providing new vertical access to the reconfigured wharf and the new section of Harborwalk. The project also includes other amenities to aid in public access and enjoyment of this segment of the waterfront, including coastal access signage, benches, interpretive signs, trash receptacles, and streetside tables and chairs available for general public use. During construction, the public will be directed to existing access along the Embarcadero, and public access at the sites will be restored

⁶ One interpretive panel will provide information on offshore oyster beds, and one will provide the history of women's involvement in local Morro Bay area fisheries.

immediately after the work is completed. Material and construction staging will be located at an offsite location that will not impact public access. In sum, the project includes a suite of public access amenities and improvements consistent with those envisioned by both the Commission and the City for new development along the Embarcadero and Morro Bay.

All construction work will be done using the Commission's typical Best Management Practices for wharf and overwater work to protect the water quality of the marine environment, including ensuring debris collection via the use of netting or containment booms, spill prevention, and general good housekeeping, as outlined in the Applicant's project description and proposed construction plan documents. The project includes the installation of one coated steel piling, which is Commission water quality staff's preferred piling material. The pile will be installed using either hydraulic jetting or via use of a vibratory hammer, both of which are Commission-preferred methods because they have fewer noise impacts to offshore marine species compared to an impact pile driver. If hydraulic jetting is the method of installation, the project will include use of a silt curtain to reduce turbidity impacts to any nearby eelgrass beds. A qualified biological monitor will be present during piling installation and repair activities to ensure that impacts to marine mammals are avoided. No construction work will be done within any existing eelgrass beds. The Commission's staff ecologist has reviewed the project and concurs that the project will adequately protect biological resources during construction. Accordingly, the project will not have any significant adverse impacts on coastal resources, including to water quality or biological resources during construction, and will in fact enhance public coastal access at this important location. For all these reasons, the project is consistent with Coastal Act Chapter 3 policies.

It should be noted that a violation of the Coastal Act exists on the subject property including, but not necessarily limited to, the use of the observation deck for private restaurant dining for the Dutchman's Seafood House, in violation of the 1991 CDP condition that required the deck to be solely for public use. Commission staff identified this as a violation during application review and notified the Applicant's representative. The Applicant agreed to immediately cease using the observation deck for restaurant space and to restore it to general public use.

Commission enforcement staff coordinated with Commission permitting staff and the Applicant to resolve this violation as part of this permit application. The project includes modifications to the observation deck (including removing the roof cover and windscreens) that will incorporate the observation deck into the larger proposed Harborwalk, thereby making a reoccurrence of this violation unlikely and improving access and connectivity across the site. Though this project is already highly beneficial for public access, to address the Commission's claims for monetary penalties for this violation of the Coastal Act, and to otherwise fully resolve the violation at issue, the Applicant is also proposing to implement a series of additional public access enhancements in the project area. These include the wharf cantilever, the interpretive panels, three benches, and the 4-foot by 5-foot Harborwalk expansion at the constrained corner between the two sites. Approval of this amendment, issuance of the amended CDP, and the Applicant's subsequent performance of the work authorized by the amended CDP in compliance with all of its terms and conditions will result in

resolution of the violation specifically described herein. The public access amenities being proposed to resolve the violation are being included herein for efficiency's sake and to avoid the need for separate enforcement or permitting action, and to allow these amenities to be in place as quickly as possible.

Although development has taken place prior to submission of this CDP amendment 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 CDP does not constitute a waiver of any legal action with regard to the alleged violations (or any other violations), nor does it constitute an implied statement of the Commission's position regarding the legality of the development undertaken on the subject site without a CDP, or of any other development, other than the development approved herein.

California Environmental Quality Act (CEQA)

CEQA Section 21080.5(d)(2)(a) prohibits a proposed development from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the development may have on the environment. The City of Morro Bay, acting as lead CEQA agency, determined that the proposed project was categorically exempt from CEQA review pursuant to Section 15301 (as a minor alteration to existing facility with no expansion of use) and 15303 (conversion of existing structures from one use to another where only minor modifications are made in the exterior of the structure),⁷ and thus the City did not identify any significant adverse environmental effects from the proposed project.

The Commission's review, analysis, and decision-making process for CDPs and CDP amendments has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(f)). Accordingly, in fulfilling that review, this report has discussed the relevant coastal resource issues with the proposal and has concluded that approval of the proposed immaterial CDP amendment is not expected to result in any significant environmental effects, including as those terms are understood in CEQA.

Accordingly, it is unnecessary for the Commission to suggest modifications (including through alternatives and/or mitigation measures) as there are no significant adverse environmental effects that approval of the proposed immaterial CDP amendment would necessitate. Thus, the proposed immaterial CDP amendment will not result in any significant adverse environmental effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A).

Coastal Commission Review Procedure

The CDP will be amended as proposed if no written objections are received in the Central Coast District office within ten working days of the date of this notice. If such an objection is received, the objection and the Executive Director's response to it will be

⁷ Initially, the Applicant sought to eliminate the fish processing plant at 715 Embarcadero and convert this portion of the building to retail use, but since the City's approval the Applicant has decided to retain the fish processing plant use at this location.

reported to the Commission on December 16, 2022 at Long Beach City Hall Council Chambers, 411 W. Ocean Boulevard in Long Beach (this meeting may also be attended online). If three or more Commissioners object to the Executive Director's determination of immateriality at that time, then the application will be processed as a material CDP amendment.

If you have any questions about the proposal or wish to register an objection, please contact Susan Craig in the Central Coast District office at Susan.Craig@coastal.ca.gov.

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NOTICE OF PROPOSED PERMIT AMENDMENT

Date: December 2, 2022
To: All Interested Parties
From: Kevin Kahn, Central Coast District Manager
Rainey Graeven, Central Coast District Supervisor
Subject: Proposed Amendment to Coastal Development Permit (CDP) A-3-SCO-98-101
Applicant: Santa Cruz County Regional Transportation Commission

Original CDP Approval

CDP A-3-SCO-98-101 was approved by the Coastal Commission on December 14, 2000, and provided for the redevelopment of an existing approximately 13,000 square-foot building¹ into an approximately 23,000 square-foot mixed-use development (including a restaurant, 5 overnight units, a spa, a retail shop, a food processing operation and warehouse space, a caretakers unit, and an additional residential unit), along with a detached approximately 600 square-foot greenhouse, a parking lot located in lower portion of the site, associated landscaping as well as lateral and vertical trail dedications and public access amenities (benches, stairs, pathways),² all located on the seaward side of Highway 1 (opposite the Highway's inland intersections with Davenport Avenue and Center Street) in the unincorporated town of Davenport along Santa Cruz County's North Coast (at 3500 Highway One; APN 58-121-04).

Proposed CDP Amendment

The proposed amendment would modify CDP requirements applicable to a portion of the upcoast part of the site that was recently acquired through eminent domain by the Santa Cruz County Regional Transportation Commission (RTC). Specifically, current CDP terms and conditions that prohibit any changes away from historical use in this area (i.e., unregulated public parking and access), and that identify public access easement areas for pedestrian use only, are proposed to be modified to allow for parking lot construction and use in that area in a form substantially consistent with the parking lot development (spanning that area and a separate upcoast RTC property) authorized under California Coastal Commission Federal Consistency Determination

¹ The building had been used as the Odwalla Juice Company factory and headquarters in the 1980s and 1990s until operations moved to Half Moon Bay sometime in the 1990s.

² The development originally authorized via CDP A-3-SCO-98-101 has not yet been realized at the site, but the areas called out for continued and future public use (including the upper bluff area and lateral/vertical public access areas) continue to be used by the public, and all required easements and related legal documents have already been recorded against the property.

Number CD-0001-21 (authorized by the Commission on December 16, 2021).³ All other terms and conditions of the CDP would remain as is and are not proposed for modification. The Commission's reference number for this proposed amendment is **A-3-SCO-98-101-A1**.

Executive Director's Immateriality Determination

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations, the Executive Director of the California Coastal Commission has determined that the proposed CDP amendment is immaterial for the following reasons:

CDP A-3-SCO-98-101 was approved over twenty years ago, well before RTC acquired the Santa Cruz Branch (railroad) Line and began pursuing public pedestrian and bicycle trail improvements and supporting public parking areas on Santa Cruz County's North Coast. As a result, the CDP did not contemplate a public parking lot project in this upcoast portion of the site, and instead was focused on protecting historic public parking and access use in that area. When the Commission considered proposed changes to allow for the public parking lot and related development in this area in 2021 through CD-0001-21, it was noted that the underlying CDP would need to be amended to also allow for that development. At the same time, the underlying CDP still authorizes a fairly significant mixed-use project downcoast of RTC's public parking lot, and it includes important terms and conditions pertaining thereto.

Thus, the proposed amendment is limited in scope, and is intended to make clear that the CDP also allows for such public parking lot development, including notwithstanding any terms and conditions (and recorded documents) applicable to the area that might suggest otherwise. Staff sees the RTC parking lot development to be half of the ultimate resolution to use issues associated with the upcoast portion of this sensitive site, where the other half would be converting the rest of the upcoast area (next to the RTC parking lot) into a public park-type area with picnic benches, benches, and other public amenities, including as has long been advocated for by the local community. Staff continues to be in discussions with the underlying property owner about such a project as part of changes that might be pursued to the CDP separately affecting the authorized mixed-use development. In short, the proposed amendment would modify the CDP in the manner required by CD-0001-21, and would otherwise leave the rest of the CDP intact.

California Environmental Quality Act (CEQA)

CEQA Section 21080.5(d)(2)(a) prohibits a proposed development from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the development may have on the environment. RTC, acting as lead CEQA agency, adopted an Environmental Impact Report (EIR) for the overall trail and parking lot project, including the parking lot

³ CD-0001-21 authorized such parking lot development as part of a larger project that includes 7.5 miles of bicycle and pedestrian trail improvements on the seaward side of Highway 1 (between Wilder Ranch and Davenport), Highway 1 crossing improvements (i.e., new flashing beacons and speed reduction signage, etc.), and parking lot improvements at two other locations in addition to the lot at this property (servicing Panther/Yellowbank Beach and Bonny Doon Beach). For more information see the adopted Commission report at [Th10a-9-2022-revised findings.pdf \(ca.gov\)](#).

in question, on March 7, 2019. That EIR includes a series of mitigation measures designed to protect coastal resources at the site, all of which are part of this proposed amendment.

The Commission's review, analysis, and decision-making process for CDP-related matters, such as this, has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(f)). Accordingly, in fulfilling that review, this report has discussed the relevant coastal resource issues with the proposal and has concluded that approval of the proposed immaterial CDP amendment is not expected to result in any significant environmental effects, including as those terms are understood in CEQA.

Accordingly, it is unnecessary for the Commission to suggest modifications (including through alternatives and/or mitigation measures) as there are no significant adverse environmental effects that approval of the proposed immaterial CDP amendment would necessitate. Thus, the proposed immaterial CDP amendment will not result in any significant adverse environmental effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A).

Coastal Commission Review Procedure

The CDP will be amended as proposed if no written objections are received in the Central Coast District office within ten working days of the date of this notice. If such an objection is received, the objection and the Executive Director's response to it will be reported to the Commission on Friday, December 16, 2022 at the hybrid virtual and in-person meeting at the Long Beach City Hall Council Chambers. If three or more Commissioners object to the Executive Director's determination of immateriality at that time, then the application will be processed as a material CDP amendment.

If you have any questions about the proposal or wish to register an objection, please contact the Central Coast District office at CentralCoast@coastal.ca.gov.

1. Revised Project Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit Revised Project Plans to the Executive Director for review and approval. The Revised Project Plans shall be substantially in the conformance with the plans submitted to the Commission (titled *Davenport Commercial* by Charles J. Franks and Associates (most recent revision dated August 30, 2000; dated received in the Commission's Central Coast District Office September 20, 2000) but shall show the following changes to the project:

- a. **Upper Bluff.** No development shall take place on the upper bluff portion of the property northwest of the existing cypress hedge (see Exhibit K-1). The proposed parking lot, entrance from Highway One, pathways, and fencing shall not be shown on the Revised Project Plans.
- b. **Building Footprint.** All improvements to the main building on the site shall be made within the existing modified building, footprint, except for decks. The existing modified building footprint shall consist of the existing building footprint except for that portion within 10 feet of the Highway One right-of-way (see Exhibit K-1).
- c. **Building Profile.** All improvements to the main building on the site shall be made within the existing building profile. The existing building profile is established by the existing elevation of the highest point of the existing roof above sea level. The Revised Project Plans shall include elevations that show the remodeled building in relation to the existing building profile.
- d. **Parking.** All 42 parking spaces to serve the uses in the main building shall be located within the lower portion of the property as shown on Exhibit K-1. In the event that the Revised Project Plans reduce parking requirements, less than 42 parking spaces may be supplied in the lower parking lot provided that sufficient parking is provided and supplied to meet the requirements of current Santa Cruz County Code Section 13.10.552.
- e. **Screening Hedges.** All hedges located between the main building and Highway One shall be no taller than necessary to screen views of the main building as seen from the Highway One right-of-way. A small opening in the hedge located between the main building and northwestern, upper bluff portion of the property may be allowed to provide access from the upper level of the main building to the upper bluff provided the size of any such opening is minimized. The Revised Project Plans shall include elevations showing the main building in relation to both hedge heights and the Highway One right-of-way at representative locations spanning the length of the property.
- f. **Main Building Sign.** One sign located along Highway One advertising the uses within the main building shall be allowed provided the sign: shall not exceed 25 square feet in surface area (as measured for one side of the sign); shall not exceed 7 feet in height as measured from existing grade; shall not be

constructed of plastic and shall not include interior illumination; shall be located as far from the Highway One travel lanes as possible and shall conform to all Caltrans requirements; and shall not obstruct the sight distance of Highway One motorists, bicyclists, or pedestrians. Any such sign shall be identified in site plan and elevation in the Revised Project Plans and shall include a description of all materials and colors to be used.

- g. Public Access Signs.** Public coastal access signs shall be provided at each trailhead (see Special Condition 2) nearest Highway One and along both sides of the highway to provide direction to both northbound and southbound travelers. Public coastal access signs for Highway travelers shall conform to all Caltrans standards for such signs. Public coastal access signs at each trailhead shall be low profile and shall include the standard coastal trail logo.
- h. Exterior Design.** The Revised Project Plans shall identify all exterior finish materials. All exterior finishes shall consist of earthen tone colors that blend with the surrounding landscape and/or corrugated metal siding replicating an agricultural building. Permittee shall submit color samples to the Executive Director for review and approval. All utilities (including but not limited to electrical power, telephone and cable television service connections, pad mounted transformers, utility meters, and electrical panels) shall be installed underground or, where underground installation is not possible, shall not be visible from any public streets or the main building parking lot entrance.
- i. Lighting.** All lighting for parking and pedestrian areas shall be limited to pedestrian oriented lighting not to exceed 3 feet in height. Such lighting shall be minimized to the amount necessary for safety purposes. Lighting shall be located where necessary to allow safe pedestrian use of the parking area at night. All lighting shall be downward directed and designed so it does not produce any light or glares off-site.
- j. Greenhouse.** The greenhouse shall be relocated between the lower parking lot and the existing cypress hedge (see Exhibit K-1). The greenhouse shall be no larger than 600 square feet, shall be screened from Highway One views, and shall conform to all requirements of current Santa Cruz County Code Section 13.10.611 for accessory structures (see exhibit G).

The Revised Project Plans shall be submitted with evidence of review and approval by the appropriate official(s) from: (1) Santa Cruz County; and (2) California Department of Transportation (Caltrans).

The Permittee shall undertake development in accordance with the approved Revised Project Plans. Any proposed changes to the approved Revised Project Plans, including but not limited to any changes in the uses within the main building, shall be reported to the Executive Director. No changes to the approved Revised Project Plans shall occur

without a Commission amendment this coastal development permit unless the Executive Director determines that no amendment is necessary.

2. Public Access Offers to Dedicate. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director permanent public easements for public pedestrian access and passive recreational use to and along the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to the acceptance of the offer, to interfere with any rights of public access required through use which may exist on the property. The areas of dedication shall consist of the following:

- a. **Beach Trail.** A corridor at least ten (10) feet wide encompassing the existing trail located southeast of the existing building extending from the northern to southern property line as shown on Exhibit K-1.
- b. **Stairway Trail.** A corridor at least ten (10) feet wide extending from the northern to southern property lines immediately north of the cypress hedge on the northwestern side of the main building and including the stairway as shown on Exhibit K-1.
- c. **Parking Area Trail.** A corridor at least ten (10) feet wide extending along the northwesterly boundary of the property from the northern to southern property line as shown on Exhibit K-1.
- d. **Railroad Trail.** A corridor at least ten (10) feet wide extending along the southwesterly boundary of the property from the western to eastern property line as shown on Exhibit K-1. If the Permittee submits evidence that indicates conclusively (in the opinion of the Executive Director) that such easement would irreconcilably conflict with the Permittee's existing easement with Union Pacific Railroad, then this easement is not required.

The recorded document shall include legal descriptions of both the Permittee's entire parcel and the areas of dedication. The document shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

3. Open Space and Habitat Conservation Offer to Dedicate. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an Open Space and Habitat Conservation Easement (Easement) for the purpose of open space and habitat protection and

conservation. Such Easement shall cover all areas of the property southeast of the existing cypress hedge located southeast of the main building except for the public access easement areas described in Special Condition 2 above (see Exhibit K-1). The recorded document shall include legal descriptions and site plans of both the Permittee's entire parcel and the Easement area. The recorded document shall indicate that no development, as defined in Section 30106 of the Coastal Act or Section 13.10.700-D of the certified Santa Cruz County Local Coastal Program, shall occur in the Easement Area except for habitat enhancement and restoration activities, vegetation removal for fire management, removal of non-native vegetation, or planting of native vegetation.

The offer to dedicate the Open Space and Habitat Conservation Easement shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

4. Habitat, Scenic, Use, and Access Protection.

- a.** Habitat. No development, as defined in Section 30106 of the Coastal Act or Section 13.10.700-D of the certified Santa Cruz County Local Coastal Program, shall occur in the Open Space and Habitat Conservation Easement (Special Condition 3) area except for habitat enhancement and restoration activities, vegetation removal for fire management, removal of non-native vegetation, or planting of native vegetation.
- b.** Scenic. All hedges located between the main building and the Highway One right-of-way shall be maintained at a height no taller than necessary to screen views of the main building as seen from the Highway One right-of-way. All plantings shall be maintained in good growing conditions throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the approved plans throughout the life of the project.
- c.** Use. The uses allowed in the on-site building are limited to: (1) "Type A" overnight visitor accommodations (i.e., hotels, inns, pensions, lodging houses, "bed and breakfast" inns, motels, recreational rental housing units pursuant to current Santa Cruz County Code Section 13.10.332); (2) a restaurant/cafe with associated greenhouse; (3) day spa, sauna, and/or hot tub uses associated with the "Type A" overnight visitor accommodations; (4) neighborhood-scale retail sales (pursuant to current Santa Cruz County Code Section 13.10.332); (4) a food processing and warehouse operation, appropriate to the scale and use of the main building, associated with restaurant and/or retail food establishment within the town of Davenport; (5) one office associated with the permitted restaurant/cafe, visitor-oriented retail, spa, or "Type A" overnight visitor accommodation uses; (6) up to two

residential dwelling units with one of these units provided strictly for a building/building use caretaker unit.

- d. **Access.** All access amenities within the easement areas required by Special Condition 2 shall be maintained in perpetuity by the Permittee.

By acceptance of this permit, the Permittee acknowledges and agrees to 4a through 4d above.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record a deed restriction in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. for the purpose of protecting habitat and scenic resource values and public access. The Habitat, Scenic, Use and Access Protection Deed Restriction (Deed Restriction) shall affect the entire parcel (Deed Restricted Area) and shall include a legal description and site plan of: the Deed Restricted Area; the Public Access Easement areas required by Special Condition 2; and the Open Space and Habitat Conservation Easement area required by Special Condition 3. The Deed Restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. The Deed Restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

5. Water & Wastewater Will Serve. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit updated water and wastewater service commitments from the Davenport Water and Sanitation District to the Executive Director of the Coastal Commission for review and approval. Such commitments shall include revised calculations of water use and wastewater generation based on the Revised Project Plans required by Special Condition 1 of this approval.

6. Archaeological Monitoring. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a plan to the Executive Director of the Coastal Commission providing for archaeological monitoring, evaluation and mitigation should any archaeological resources be discovered during construction. If such archaeological resources are discovered at any time during construction, all work which could damage or destroy these resources shall be temporarily suspended and all procedures established in current Santa Cruz County Code Sections 16.40.040 and 16.44.070 shall be observed.

7. Landscape Monitoring Report. WITHIN TWO YEARS OF OCCUPANCY OF THE APPROVED COMMERCIAL MIXED-USE BUILDING, the Permittee shall submit a landscape monitoring report to the Executive Director for review and approval. Such report shall include photographs of all portions of the site as viewed from the Highway One right-of-way and all landscaping. In the event that in the opinion of the Executive Director landscaping is disrupting the public view across the property from Highway One, the Executive Director shall detail to the Permittee revised landscaping

requirements for different areas of the property. The Permittee shall implement the revised landscaping requirements. In the event that the Permittee disagrees with the Executive Director's assessment, the Executive Director shall schedule the monitoring report as a condition compliance item for the Coastal Commission's review and approval.

8. Public Rights. The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights which may exist on the property. The Permittee shall not use this permit as evidence of a waiver of any public rights which may exist on the property.

9. Santa Cruz County Conditions. All previous conditions of approval imposed on the project by the Santa Cruz County pursuant to an authority other than the California Coastal Act remain in effect (Santa Cruz County Application Number 95-0685; see Exhibit C). To the extent such Santa Cruz County conditions conflict with the Coastal Commission's conditions for Coastal Development Permit Number A-3-SCO-98-101, such conflicts shall be resolved in favor of the conditions for Coastal Development Permit Number A-3-SCO-98-101.

10. Davenport Parking Lot. Notwithstanding the terms and conditions of this CDP, including the parameters of the recorded public access easements and related documents associated with Special Conditions 2 and 3, this CDP, as amended, authorizes parking lot construction and use in a portion of the upper bluff area in a form substantially consistent with the parking lot development authorized under California Coastal Commission Federal Consistency Determination Number CD-0001-21.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT
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NOTICE OF PROPOSED PERMIT EXTENSION

Date: December 2, 2022
To: All Interested Parties
From: Kevin Kahn, Central Coast District Manager
Esme Wahl, Coastal Planner
Subject: Proposed Extension to Coastal Development Permit (CDP) A-3-SLO-00-040. Applicant: Dennis Schneider

Original CDP Approval

CDP A-3-SLO-00-040 was approved by the Coastal Commission on January 10, 2008 and provided for the construction of a single-family residence with an attached garage, a detached indoor lounge/pool structure, water well, septic system, water tanks, underground utility connections, landscaping necessary to screen the development, fencing around the residential development area and water tanks, a driveway/access road, and the dedication of an easement for future construction and use of a segment of the California Coastal Trail, all on a 40.6-acre parcel located west of Highway 1 approximately one-half mile south of China Harbor and one mile north of Villa Creek Road along the Harmony Coast in San Luis Obispo County.

Proposed CDP Extension

The expiration date of CDP A-3-SLO-00-040 has been extended 13 times in the past, and is proposed to be extended by one year again here. The new expiration date would be January 10, 2024. The Commission's reference number for this proposed extension is **A-3-SLO-00-040-E14**.

Executive Director's Changed Circumstances Determination

Pursuant to Title 14, Section 13169 of the California Code of Regulations, the Executive Director of the California Coastal Commission has determined that there are no changed circumstances affecting the approved development's consistency with the certified San Luis Obispo County Local Coastal Program and/or Chapter 3 of the Coastal Act, as applicable.

California Environmental Quality Act (CEQA)

CEQA Section 21080.5(d)(2)(a) prohibits a proposed development from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the development may have on the environment.

The Commission's review, analysis, and decision-making process for CDP-related matters, such as this, has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by

CEQA (CCR Section 15251(f)). Accordingly, in fulfilling that review, this report has discussed the relevant coastal resource issues with the proposal, and has concluded that approval of the proposed CDP extension is not expected to result in any significant environmental effects, including as those terms are understood in CEQA.

Accordingly, it is unnecessary for the Commission to suggest modifications (including through alternatives and/or mitigation measures) as there are no significant adverse environmental effects that approval of the proposed CDP extension would necessitate. Thus, the proposed CDP extension will not result in any significant adverse environmental effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A).

Coastal Commission Review Procedure

The Executive Director's determination and any written objections to it will be reported to the Commission on Friday, December 16, 2022 at the hybrid virtual and in-person meeting at the Long Beach City Hall Council Chambers. If three or more Commissioners object to the Executive Director's changed circumstances determination at that time, a full hearing on whether changed circumstances exist will be scheduled pursuant to the Commission's regulations.

If you have any questions about the proposal or wish to register an objection, please contact Esme Wahl (Esme.Wahl@coastal.ca.gov) in the Coastal Commission's Central Coast District office.

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NOTICE OF PROPOSED PERMIT EXTENSION

Date: December 2, 2022
To: All Interested Parties
From: Kevin Kahn, Central Coast District Manager
Breylen Ammen, Coastal Planner
Subject: Proposed Extension to Coastal Development Permit (CDP) A-3-MCO-19-0042
Applicant: Valley Point, LLC

Original CDP Approval

CDP A-3-MCO-19-0042 was approved by the Coastal Commission on July 9, 2020 and provided for the construction of a single-family residence at 26346 Valley View Avenue in the Carmel Point neighborhood of unincorporated Monterey County.

Proposed CDP Extension

As indicated above, the CDP was originally approved by the Coastal Commission on July 9, 2020 and included a two-year term with an expiration date of July 9, 2022. The Applicant's request for CDP extension was dated received in the Commission's Central Coast District office on June 13, 2022, thereby staying the expiration of the approval. Under this proposed extension, the expiration date of CDP A-3-MCO-19-0042 would be extended by one additional year until July 9, 2023. The Commission's reference number for this proposed extension is **A-3-MCO-19-0042-E1**.

Executive Director's Changed Circumstances Determination

Pursuant to Title 14, Section 13169 of the California Code of Regulations, the Executive Director of the California Coastal Commission has determined that there are no changed circumstances affecting the approved development's consistency with the certified Monterey County Local Coastal Program and/or Chapter 3 of the Coastal Act, as applicable.

Coastal Commission Review Procedure

The Executive Director's determination and any written objections to it will be reported to the Commission on December 16, 2022, at the Commission's hybrid virtual and in-person hearing in Long Beach. If three or more Commissioners object to the Executive Director's no changed circumstances determination at that time, a full hearing on whether changed circumstances exist will be scheduled pursuant to the Commission's regulations.

If you have any questions about the proposal or wish to register an objection, please contact Breylen Ammen in the Central Coast District office at Breylen.Ammen@coastal.ca.gov.

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**EMERGENCY COASTAL DEVELOPMENT PERMIT**

Emergency CDP G-3-22-0033

(Carmel River Lagoon Sandbar Management)

Issue Date: December 1, 2022

Permittee: Monterey County**Emergency Location:** Carmel River State Beach, Carmel River Lagoon and adjacent residential properties**Emergency Description:** Potential flooding of homes and State Beach facilities directly adjacent to the Carmel River Lagoon due to the buildup of a sandbar fronting the lagoon that blocks drainage of the lagoon until it is breached artificially or by high river flow in the wet season. Specifically, there is a risk that any significant rainfall could lead to flooding of approximately 12 residential homes, loss of the State Beach parking lot, and undercutting of the State Beach restroom, all located upcoast and to the north along the bank of the lagoon.**Emergency Development:** Manage the sandbar at Carmel River State Beach during the 2022-23 rainy season, including by cutting and managing a channel between the lagoon and Carmel Bay to reduce the water level in the lagoon so as to avoid/minimize flooding of existing residences and State Beach facilities upcoast and to the north of the lagoon fronting Carmel River State Beach. Monterey County has estimated the flood elevation to be 15.74 feet (NAVD88). To avoid exceeding flood elevation, mobilization and mechanical breaching of the sandbar would commence when one or more of the following conditions is met: 1) lagoon water level reaches a surface elevation of 13.27 feet (NAVD88); 2) the rise in lagoon water levels indicates there is less than six hours until the water surface elevation reaches 12.77 feet (NAVD88) or when Carmel River flows reach or exceed 200 cubic feet per second at the Robles del Rio Bridge stream gauge; or 3) wave over-topping begins to rapidly increase water levels of the lagoon and increases the sandbar elevation.**Executive Director's Determination**

The Executive Director of the California Coastal Commission hereby finds that: (a) a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services exists (i.e., an "emergency" (see Title 14 California Code of Regulations Section 13009 and California Coastal Act (Public Resources Code) Section 30624); (b) the emergency requires action more quickly than allowed by the procedures for regular CDPs; (c) the

Enclosure: ECDP Acceptance Form

cc: (via email): Brent Marshall (California Department of Parks and Recreation); Sophie De Beukelaer (Monterey Bay National Marine Sanctuary); Katerina Galacatos (U.S. Army Corps of Engineers); Chad Mitcham (U.S. Fish and Wildlife Service); Amanda Morrison (National Marine Fisheries Service); Linda Connolly (California Department of Fish and Wildlife); Erik Lundquist (Monterey County Planning Department); Brandon Swanson (City of Carmel-by-the-Sea)

Emergency CDP G-3-22-0033 (Carmel River Lagoon Sandbar Management)

Issue Date: December 1, 2022

emergency development can and will be completed within 30 days unless otherwise specified by the terms of this ECDP; (d) the emergency development carried out under this ECDP is considered temporary work done in an emergency situation to abate an emergency and is undertaken at Permittee risk; (e) a regular CDP must be obtained for the emergency development to become more than temporary emergency abatement and/or if the Permittee wishes to expand the scope of work beyond that authorized by this ECDP; (f) absent obtaining a regular CDP, the emergency development shall be removed and the affected area restored; and (g) Commission staff will review public comment on the proposed emergency development as time allows.

The emergency development is hereby approved, subject to the conditions listed below.

Kevin Kahn

Kevin Kahn, Central Coast District Manager, for John Ainsworth, Executive Director

Conditions of Approval

1. The enclosed ECDP acceptance form must be signed by the Permittee and returned to the California Coastal Commission's Central Coast District Office within 15 days of the date of this ECDP (i.e., by December 16, 2022). This ECDP is not valid unless and until the acceptance form has been received in the Central Coast District Office.
2. All emergency development shall be limited in scale and scope to that specifically identified in the Emergency Permit Application Form dated received in the Commission's Central Coast District Office on September 22, 2022. Only that emergency development specifically described in this ECDP and for the specific location listed above is authorized. Any other development requires separate authorization from the Executive Director or the Commission, as applicable.
3. The emergency development authorized by this ECDP extends through the 2022-23 rainy season (i.e., until April 15, 2023) only, unless extended for good cause by the Executive Director.
4. This ECDP does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g., California Department of Parks and Recreation, California Department of Fish and Wildlife, California State Lands Commission, Monterey Bay National Marine Sanctuary, United States Army Corps of Engineers, National Marine Fisheries Service, United States Fish and Wildlife Service, etc.). The Permittee shall submit to the Executive Director copies of all such authorizations and/or permits upon their issuance.
5. By exercising this ECDP, Permittee acknowledges and agrees that: (a) the emergency development is temporary, is designed to temporarily abate the emergency, and shall be removed unless and until a regular CDP authorizing the work is approved, and provided the Permittee adheres to such regular CDP's terms and conditions; and (b) a regular CDP is subject to all of the provisions of the California Coastal Act (as codified in Sections 30000 to 30900 of the Public

Emergency CDP G-3-22-0033 (Carmel River Lagoon Sandbar Management)

Issue Date: December 1, 2022

Resources Code) and any applicable Local Coastal Program (LCP) policies and may be conditioned accordingly to avoid and/or to offset coastal resource impacts consistent with the Coastal Act (and LCP as applicable) (including but not limited to requirements for public access provisions (such as offers to dedicate, easements, in-lieu fees, etc.), assumption/disclosure of risks (including deed restrictions), triggers for relocation/removal, offsetting mitigations, etc.). The Permittee acknowledges that review of the CDP application to determine consistency with the Coastal Act (and LCP as applicable) will be based on the conditions the property was legally in prior to initiation of the temporary emergency development that is the subject of this ECDP.

6. By exercising this ECDP, the Permittee acknowledges and agrees in relation to this ECDP and the emergency development that it authorizes: (a) to assume all risks (including all coastal hazard risks, that include but are not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, tidal scour, storms, tsunamis, coastal flooding, landslide, earth movement, and the interaction of all of these, many of which will worsen with future sea level rise); (b) to unconditionally waive any claim of damage and/or liability against the Commission and/or its officers, employees, agents, successors and/or assigns; (c) to indemnify and hold harmless the Commission and its officers, employees, agents, successors and/or assigns 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, including as it relates to any damages to public and/or private properties and/or personal injury; (d) that any adverse effects to property or people caused by the emergency development shall be fully the responsibility of the Permittee.
7. The Permittee shall reimburse the Commission in full for all Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (a) charged by the Office of the Attorney General; and/or (b) required by a court) that the Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Commission, its officers, employees, agents, successors and/or assigns challenging the approval or issuance of this ECDP, the interpretation and/or enforcement of ECDP terms and conditions, or any other matter related to this ECDP. The Permittee shall reimburse the Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, its officers, employees, agents, successors and/or assigns.
8. The emergency development authorized by this ECDP is only temporary, and shall no longer be authorized if it is not followed-up by a regular CDP that provides a comprehensive response to flooding along Carmel Lagoon in a manner that is most protective of Carmel River/Lagoon resources and public recreational access, including through application of the least environmentally damaging alternatives for addressing flood risks and shoreline erosion, and allowing the river/lagoon system to operate as naturally as possible without artificial manipulation. Accordingly, as part of the final report required by Special Condition 17, the Permittee shall provide a

Emergency CDP G-3-22-0033 (Carmel River Lagoon Sandbar Management)

Issue Date: December 1, 2022

status update on ongoing planning and coordination work related to the long-term comprehensive response and management of the Carmel River and Lagoon, including as related to the proposed Scenic Road Protection System. Within one year of the date of this ECDP (i.e., by December 1, 2023), the Permittee shall submit a complete application for a regular CDP. (The CDP application may be found at: <http://www.coastal.ca.gov/cdp/cdp-forms.html>). Otherwise, the temporary emergency development shall no longer be authorized, and all areas affected by it shall be restored to their original pre-emergency development condition. The application shall include photos showing the project site before the emergency, during emergency project construction activities, and after the work authorized by this ECDP is complete. The deadline in this condition may be extended for good cause by the Executive Director.

9. Failure to meet any of the applicable requirements of Condition 8 above shall constitute a knowing and intentional violation of the Coastal Act and may result in formal enforcement action by the Executive Director and/or the Commission. Such formal action may include: recordation of a Notice of Violation on the Permittee's property; the issuance of a Cease and Desist Order and/or a Restoration Order; imposition of administrative penalties of up to \$11,250 per day per violation; a civil lawsuit (that may result in the imposition of monetary penalties, including daily penalties of up to \$15,000 per violation per day); and/or other applicable penalties and relief pursuant to Coastal Act Chapter 9. In addition, failure to follow and meet all terms and conditions of this ECDP shall also constitute a knowing and intentional Coastal Act violation to which the same actions above may be applied.
10. All emergency development shall be limited to the least amount necessary to temporarily abate the emergency, and shall be undertaken in a time and manner that avoids any and all coastal resource impacts as much as possible, including avoiding impacts to public access. The Permittee shall keep the Executive Director informed regarding emergency development progress, including in terms of any issues encountered that may require adjustment.
11. A qualified biologist (including with a minimum of three years' experience with anadromous salmonids) shall be present during all emergency development activities and shall monitor the lagoon and sandbar on a daily basis for as long as the emergency development activities authorized under this ECDP persist. The biological monitor shall ensure that all emergency development is limited to the least amount necessary to abate the emergency, and that it avoids impacts to adjacent marine and lagoon resources as much as possible, including through adaptive management measures to respond to changing conditions and/or understandings relative to flood risk and habitat impacts.
12. Prior to any mechanical breaching of the sandbar, the Permittee shall have ensured that all other possible flood protection measures (e.g., sandbags, rubber dams, etc.) have been applied to protect surrounding floodwater-threatened homes, infrastructure, and other development to the maximum extent feasible.
13. For the construction of the channel, the Permittee shall excavate a channel through

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the sandbar in a direction and manner as agreed upon in consultation with NOAA Fisheries, and in a manner that results in a more natural and less erosive breach. The intention is that wave action or rising lagoon water levels will naturally breach the sandbar and create a breach channel to the ocean. Based on typical beach and sandbar conditions, the excavation channel would be constructed to the south and result in the excavation and side-casting of approximately 250-400 cubic yards of beach sand. The channel will be excavated to an approximate depth elevation of 12.77 feet (NAVD88). The primary area of site disturbance (including the channel, side-cast area, and sand stockpile area) is estimated at approximately 0.60 acre and 300 linear feet. If existing shoreline conditions prevent establishing a diagonal channel in the manner described above, the Permittee may, in conjunction with the other responsible agencies identified in Condition #4 above, be authorized to modify the channel configuration (i.e., length, width, and location) to reduce flood risks in a manner that also protects sensitive resources and species to the greatest extent practicable.

14. Following any sandbar breach and after high inflows from the river have receded, the lagoon shall either be allowed to naturally close or remain with an open outlet channel flowing over the beach in the alignment described in Condition 13 above (i.e., a long meandering channel that mutes tidal influence and rapid draining of the lagoon), whichever is more protective of resources, including as directed by the biological monitor.
15. All emergency development activities shall limit impacts to coastal resources (including public recreational access, shoreline bluff, Carmel River and the lagoon, and the Pacific Ocean) to the maximum extent feasible including by, at a minimum, adhering to the following construction requirements (which may be adjusted by the Executive Director if such adjustments: (1) are deemed necessary due to extenuating circumstances; and (2) will not adversely impact coastal resources):
 - a. All construction areas shall be minimized, shall allow public recreational access along Carmel River State Beach, and shall protect public safety to the maximum extent feasible. Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.
 - b. Construction work and equipment operations shall not be conducted seaward of the mean high-water line unless tidal waters have receded from the authorized work areas.
 - c. Grading of intertidal areas is prohibited.
 - d. Any construction materials and equipment delivered to the beach area shall be delivered by rubber-tired construction vehicles. When transiting on the beach, all such vehicles shall remain as high on the upper beach as possible and avoid contact with ocean waters and intertidal areas.

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- e. Any construction materials and equipment placed on the beach during daylight construction hours shall be stored beyond the reach of tidal waters. All construction materials and equipment shall be removed in their entirety from the beach area by sunset each day that work occurs.
 - f. All construction areas shall be minimized and demarked by temporary fencing designed to allow through public access and protect public safety to the maximum extent feasible. Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.
 - g. The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep equipment covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach; etc.).
 - h. All construction activities that result in discharge of materials, polluted runoff, or wastes to the beach or the adjacent marine environment are prohibited. Equipment washing, refueling, and/or servicing shall not take place on the beach. Any erosion and sediment controls used shall be in place prior to the commencement of construction as well as at the end of each workday.
 - i. All accessways impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction. Any beach sand in the area that is impacted by construction shall be filtered as necessary to remove any construction debris.
 - j. All contractors shall ensure that work crews are carefully briefed on the importance of observing the construction precautions given the sensitive work environment. Construction contracts shall contain appropriate penalty provisions sufficient to offset the cost of retrieval/clean-up of foreign materials not properly contained and/or remediation to ensure compliance with this ECDP otherwise.
 - k. The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office immediately upon completion of construction and required restoration activities. If planning staff should identify additional reasonable restoration measures, such measures shall be implemented immediately.
16. Copies of this ECDP shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of this ECDP, and the public review requirements applicable to it, prior to commencement of construction.
17. Within 30 days of completion of construction authorized by this ECDP, the Permittee shall submit site plans and cross sections to the Executive Director clearly identifying

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all development completed under this emergency authorization (comparing the legal pre-emergency development condition to both the emergency condition and to the post-emergency development condition), and a narrative description of all emergency development activities undertaken pursuant to this ECDP. Photos showing the project site before the emergency (if available), during emergency development construction activities, and after the work authorized by this ECDP is complete shall be provided with the site plans and cross sections. The report shall include a section prepared by the biological monitor providing his/her monitoring observations, including in terms of potential impacts to habitat resources (including identification of any fish mortality and/or harm or harassment (e.g., fish entrainment in the outlet channel during breaching)) and recommendations for project changes to avoid such impacts.

18. A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and the construction coordinator's contact information (i.e., address, email, phone numbers, etc.) including, at a minimum, an email address and a telephone number (with voice mail capabilities) that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the contact information (e.g., name, address, email, phone number, etc.) and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry. The Permittee shall submit the record of complaints/inquiries and actions taken in response to the Executive Director on a weekly basis, and upon completion of construction activities.
19. Minor adjustments to the requirements above, including deadline adjustments, may be allowed by the Executive Director if the Executive Director determines that such adjustments: (a) are deemed reasonable and necessary to help to temporarily abate the identified emergency, including as emergency conditions may change; (b) are designed to avoid coastal resource impacts (and limit those that are unavoidable) as much as possible; and (c) in the case of deadline extension adjustments, are appropriate in light of circumstances, including that the Permittee has shown diligence in pursuing the emergency development and meeting all ECDP terms and conditions.
20. By exercising this ECDP, Permittee acknowledges and agrees that this ECDP shall not constitute evidence against and/or a waiver of any public rights which may exist on the property.
21. The Permittee shall disclose this ECDP, including all of its terms and conditions, to any prospective buyer of the affected property during the period of time that any development that is the subject of this ECDP remains on such property.

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22. Failure to comply with the terms and conditions of this ECDP may result in enforcement action under the provisions of Coastal Act Chapter 9. The issuance of this ECDP does not constitute admission as to the legality of any development undertaken on the property without a CDP and shall be without prejudice to the California Coastal Commission's ability to pursue any remedy under Coastal Act Chapter 9.

If you have any questions about the provisions of this ECDP, please contact the Commission's Central Coast District Office at 725 Front Street, Suite 300, Santa Cruz, CA 95060; centralcoast@coastal.ca.gov; and/or (831) 427-4863.