

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: CONSENT CALENDAR

Application No.: 5-21-0742

Applicant: Allen and Pari Ashabi

Agent: Heidi Kohler

Location: 1011 Buena Vista, San Clemente (Orange County)
(APN: 692-061-02)

Project Description: On a 16,323 sq. ft. oceanfront bluff top lot, remodel of 2, single-story, 18-foot tall buildings housing 2 units each with combined living area of 3,064 sq. ft. separated by a breezeway and covered by a single roof; 570 sq. ft. addition to Unit #3 within the breezeway combining the 2 structures into a single 3,645 sq. ft. 4-unit structure; demolition and reconstruction of a 4-car garage, new permeable paver driveway, and 128 cu. yds. of grading.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The applicants propose the remodel of two residential structures housing two units each, plus a 570 sq. ft. addition to Unit #3, demolition and reconstruction of an existing 4-car garage including 128 cu. yds. of grading for garage reconstruction, demolition of concrete driveway approach and construction of a new permeable paver driveway on a bluff top lot. An existing concrete patio on the bluff facing side of the lot is proposed to remain.

The 2 existing 2-unit structures and the existing garage were built prior to passage of the Coastal Act. All 4 units are proposed to be retained. The size of the 3 smaller units will remain the same and the size of the largest unit will be increased. The building housing Unit #1 and Unit #2 is setback 36 feet from the bluff edge and the building housing Unit #3 and Unit #4 is setback 22 feet from the bluff edge. The proposed new addition would be setback 36 feet from the bluff edge. Less than 50% alteration to the exterior walls and roof structures are proposed for both existing residential structures and no changes to the foundations or floor structures are proposed for either residential structure.

The geotechnical report submitted by the applicants concludes that the site is grossly stable and that the proposed addition is considered feasible from a geotechnical viewpoint. The Commission's geologist has determined that new development setback 37 ft. from the bluff edge would be reasonably safe from bluff instability and erosion over a 75 year period. Thus, the new addition is appropriately sited, but the portion of the existing building housing Unit #3 and Unit #4 located seaward of the 37 ft. setback may be subject to geologic instability. The applicants propose to replace portions of the exterior walls and the entirety of the roof structure to the seaward most portion of the building housing Unit #3 and Unit #4 (**Exhibit 4**). In the project vicinity, the Commission typically imposes either a minimum bluff edge setback of 25 feet from the edge of the bluff for primary structures and minimum 10 foot setback for secondary structures (at grade patios, decks, garden walls), a greater setback based on site geology, or requires conformance with structural and deck stringline setbacks if no geological issues. Thus, the building housing Units 3 and 4 is legally nonconforming to the bluff edge setback.

Because none of the proposed major structural component alterations exceed 50%, the proposed improvements do not meet the definition of a Major Remodel as defined in the City of San Clemente's certified Land Use Plan (LUP). If the proposed improvements did exceed the 50% threshold, per the LUP, the building housing Units #3 and #4 would be required to conform to current bluff edge setback policies. Thus, the non-conforming bluff edge setback for Unit #3 may be maintained. However, even when a residence is not demolished and rebuilt, improvements that increase the economic life of the structure in a hazardous location are inconsistent with the Coastal Act and can reduce the incentive to move the structure landward to reduce risk and the need for shoreline protection. Therefore, significant improvements that extend the life to portions of blufftop structures nonconforming to a coastal bluff setback in its current location must be limited to those that would not result in the need for future shoreline protection, consistent with Chapter 3 policies and the hazard policies of the certified LUP. As development on coastal bluff sites is inherently dangerous, and the proposed development may be subject to unforeseen or underestimated geologic hazards in the future, which could lead to proposals for new shoreline or bluff protective devices with the potential to adversely affect coastal resources, the applicants have agreed to waive any rights to construct any such bluff/shoreline protection devices that may exist under applicable law for the entire site, including both the new addition and all existing structures proposed to be remodeled.

To prevent adverse impacts to housing opportunities in the coastal zone, the project is also conditioned to retain the existing number of units and to maintain the size of the three smaller units.

Commission staff recommends that the Commission find the proposed remodel and addition to existing structures at the subject site, as conditioned, is consistent with the Coastal Act and policies of the certified LUP. Commission staff recommends **approval** of the proposed project with seven (7) special conditions regarding: **1. No Future Shoreline/Bluff Protection Device; 2. Future Improvements; 3. Assumption of Risk and Waiver of Liability; 4. Construction Phase BMPs; 5. Landscaping; 6. Unit Retention and Size; and 7. Deed Restriction.**

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APPENDICES

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EXHIBITS

- Exhibit 1 – Location Map
- Exhibit 2 – Aerial Photographs
- Exhibit 3 – Topographic Map
- Exhibit 4 – Project Plans

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve the Coastal Development Permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

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

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

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

of the permit.

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

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. No Future Shoreline Protective Device.

- A. By acceptance of the permit, the permittees agree, on behalf of themselves and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-21-0742 including, but not limited to the addition, all remodeled structures, and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, bluff retreat, landslides, or other coastal hazards in the future, and as may be exacerbated by sea level rise. By acceptance of this Permit, the permittees hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under applicable law.
- B. By acceptance of this Permit, the permittees further agree, on behalf of themselves and all successors and assigns, that the existing revetment that currently protects the railroad at the bluff toe may not continue to provide the protection that it currently provides unless it can be repaired, maintained, enhanced, or reinforced in the future; and the development approved pursuant to this CDP may not be able to rely on the protection currently provided by the existing revetment in the future.
- C. By acceptance of this permit, the permittees/ landowners further agree, on behalf of themselves and all successors and assigns, that the permittees/ landowners shall remove the development authorized by this permit including, but not limited to the addition and all remodeled structures, if:
1. the City or any 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 a bluff or shoreline protective device;
 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 or regulations for sea level rise adaption planning; or

4. The development necessitates a new bluff or shoreline protective device that conflicts with applicable LCP or Coastal Act policies.

The permittees shall obtain a coastal development permit for removal of approved development unless the Executive Director determines that no coastal development permit is legally required.

- D. In the event the edge of the bluff recedes to within 10 feet of the foundation of the blufftop residence, the permittees shall submit a geotechnical investigation and report prepared by a licensed geologist with coastal experience or a licensed civil engineer with coastal experience. The report shall address whether any portions of the blufftop residence are threatened by waves, erosion, storm conditions, liquefaction, bluff retreat, landslides or other natural hazards. The report shall identify all immediate or potential measures that could stabilize the blufftop residence without new shoreline armoring (including caissons), including, but not limited to, removal or relocation of portions of the blufftop residence. The report shall be submitted to the Executive Director and the appropriate local government official within 90 days of the bluff edge reaching 10 feet of the foundation of the blufftop residence. If the Executive Director determines based on the geotechnical report that the blufftop residence or any portion of the blufftop residence is no longer safely sited, the permittees shall, within 90 days of submitting the report, apply for a coastal development permit or amendment to this Coastal Development Permit (CDP) to undertake measures required to remove the blufftop residence or reduce the size of the blufftop residence to eliminate the hazard potential.
- E. Approval of CDP No. 5-21-0742 does not allow encroachment onto public trust lands. Any future encroachment onto public trust lands shall be removed unless authorized by the Coastal Commission. Additionally, encroachment onto public trust lands is subject to approval by the State Lands Commission or other designated trustee agency.

2. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the permittees acknowledge and agree (i) that the site may be subject to hazards from erosion and coastal bluff failure, erosion, storm conditions, liquefaction, and other coastal hazards in the future, and as may be exacerbated by sea level rise; (ii) to assume the risks to the permittees and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

- 3. Future Improvements.** This permit is only for the development described in Coastal Development Permit No. 5-21-0742. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to this development governed by the Coastal Development Permit No. 5-21-0742. Accordingly, any future improvements to the structures authorized by this permit, including but not limited to, repair and maintenance identified as requiring a permit in Public Resources Code Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-21-0742 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
- 4. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.** The permittee shall comply with the following construction-related requirements:

 - A. No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion;
 - B. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;
 - C. Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project;
 - D. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
 - E. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
 - F. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
 - G. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the Coastal Zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
 - H. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
 - I. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
 - J. The discharge of 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.
- 5. Landscaping-Drought Tolerant, Non-Invasive Plants.** Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <https://ucanr.edu/sites/WUCOLS/files/183488.pdf>). If potable water is used for irrigation only drip or micro spray irrigation systems may be used. Other water conservation measures shall also be considered, such as use of weather based irrigation controllers.
- 6. Retention of Four Units On-Site.** The development approved by Coastal Development Permit No. 5-21-0742 is for retention of four residential units with the smaller units at least 371 sq. ft., 407 sq. ft., and 622 sq. ft. The permittees and all assigns/successors shall maintain the four separate primary dwelling units with the minimum size for the smaller units to be no less than 371 sq. ft., 407 sq. ft., and 622 sq. ft. in area. At no point may one residential unit be incorporated into the other residential unit or converted to a non-residential use. Ingress and egress (doors) between the four residential units are prohibited.
- 7. Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval, documentation demonstrating that the landowners have executed and recorded 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 (hereinafter referred to as the “Standard and Special Conditions”); and (2) imposing all Standard and 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 applicants' entire parcel. 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 LOCATION AND DESCRIPTION

The proposed development is located at 1011 Buena Vista in the City of San Clemente, Orange County (**Exhibit 1**) within 50 feet of a coastal bluff between the sea and the first public road. The subject site is designated RM (Residential Medium Density) in the San Clemente certified Land Use Plan (LUP). Surrounding development consists of single-family and multi-family residences. Public access to the beach is located approximately 100 feet upcoast of the site at the El Portal public stairway access down the bluff face to the El Portal protected pedestrian railroad crossing to the public beach.

The proposed project includes the complete interior remodel to two single-story, 18-foot tall buildings housing two units each with a living area of 3,064 sq. ft. The two buildings are currently separated by a breezeway and covered by a single roof. A proposed 570 sq. ft. addition to Unit #3 within the breezeway will result in the combination of the two structures into a single structure with a final combined living area of 3,645 sq. ft. for four units. The proposed project would not result in the loss of rental units. Project plans are included as **Exhibit 4**. The following table outlines the proposed changes to the existing units.

| Unit | Existing | Proposed sq. ft. Addition/Change |
|--------------|---------------|---|
| Unit 1 | 407 sq. ft. | 407 sq. ft. (no change in sq. ft.) |
| Unit 2 | 622 sq. ft. | 622 sq. ft.(no change in sq. ft.) |
| Unit 3 | 1,387 sq. ft. | 1,387 sq. ft. existing + 570 sq. ft. new addition + 192 sq. ft. from storage room + 186 sq. ft. from Unit 4 = 2,241 sq. ft. total |
| Unit 4 | 371 sq. ft. | 224 sq. ft. existing + 83 sq. ft. from laundry room + 68 sq. ft. from Unit 3 = 375 sq. ft. |
| Storage room | 192 sq. ft. | -192 sq. ft. (added to Unit 3) |
| Laundry room | 83 sq. ft. | -83 sq. ft. (added to Unit 4) |
| 4-car garage | 885 sq | 885 sq. ft. (no change in sq. ft.) |

The proposed project includes substantial changes to the existing exterior walls and roof structure. Thirty-seven percent (37%) of linear feet of the exterior walls of the building containing Units 1 & 2 is proposed to be altered and forty-seven (47%) of linear feet of the exterior walls of the building containing Units 3 & 4 is proposed to be altered. The site provides a total of eight (8) on-site parking spaces, 4 spaces in the detached garage and, 4 spaces on the driveway. The existing 4-car garage is proposed to be demolished and reconstructed with a greater setback from the street (frontage road) and the concrete driveway approach reconstructed with permeable pavers. All 8 parking spaces will be maintained on site. No drainage improvements are proposed for the bluff-facing portion of the lot; no development is proposed to an existing concrete patio on the bluff-facing portion of the lot and no vegetation removal or new landscaping is proposed. 128 cu. yds. of grading is proposed which is necessary to key the garage into the slope on the landward (street-facing) side of the lot.

No adverse visual impact to public views to the coastal bluffs from the beach at bottom of the bluff is anticipated by the proposed remodel or 570 sq. ft. single-story addition. Given the site's location on a coastal bluff top, the proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. To protect the quality of coastal waters, the project must also include adequate drainage and erosion control measures during construction, therefore, the Commission imposes **Special Condition 4** requiring the applicant comply with construction-related requirements related to storage of construction materials, mechanized equipment and removal of construction debris. Furthermore, **Special Condition 5** requires any new vegetated landscaped areas to consist of native plants or non-native drought tolerant (low-water use) plants, which are non-invasive to avoid additional water runoff/discharge.

The subject site and existing improvements were built prior to passage of the Coastal Act. The structure housing Unit #1 and Unit #2 is setback 36 feet from the bluff edge and the structure housing Unit #3 and Unit #4 is setback 22 feet from the bluff edge. In the project vicinity, the Commission typically imposes a minimum bluff edge setback of 25 feet from the edge of the bluff for primary structures and minimum 10 foot setback for secondary structures (at grade patios, decks, garden walls), a greater setback based on site geology, or requires conformance with structural and deck stringline setbacks if no geological issues exist necessitating a greater setback. Thus, at 22 feet from the bluff edge, the structure housing Units 3 and 4 is legally nonconforming to the bluff edge setback. The applicants propose less than 50% demolition for both structures, therefore, the proposed development is not considered new development and the non-conforming bluff edge setback for Unit #3 may be maintained. The proposed new addition to the structure is setback 37 feet from the bluff edge. The applicants submitted a geotechnical report (Geoboden Inc, dated 6/8/20) with a slope stability analysis concluding the site is grossly stable, meeting the necessary factors of safety and that the proposed new development (e.g., addition) setback 37 feet from the bluff edge is adequate to protect against shallow instability and considered feasible from a geotechnical viewpoint.

The coastal bluffs in San Clemente have not been subject to direct wave attack over the past 100 years as there is either a sandy beach separating the surf zone from the base of the bluff or a rock rip-rap revetment between the beach and the Orange County Transit Authority (OCTA) railroad tracks and railroad right-of-way at the bluff toe. The rip rap revetment protects the railroad tracks from erosion and wave overtopping and provides a level of protection to development at the top of the bluff. If the railroad and revetment remain in place and are maintained against all coastal hazard threats, significant bluff retreat is not to be expected at the site and the 37 feet setback for the proposed new addition would likely be adequate to ensure stability over 75 years. However, the San Clemente Land Use Plan (LUP) hazards policies clearly mirror the Coastal Act policy that new development cannot rely on shoreline armoring for safety and stability, including reliance on existing shoreline armoring. Potential future bluff retreat assuming no railroad armoring at the bluff toe also considering the possibility of

shoreline retreat associated with future Sea Level Rise (SLR) would continue to narrow the beach and eventually cause renewed marine erosion which contributes to bluff retreat. Typically, bluff retreat projects rely on historical marine erosion rates as a baseline, however, due to the existence of the railroad over the past 100 years, the natural erosion rate of the San Clemente bluffs is unknown. According to the San Clemente SLR Vulnerability Analysis, absent the railroad protection, the bluff at the subject site would experience marine erosion with about 3-feet SLR.

Because none of the proposed major structural component alterations exceed 50%, the proposed improvements do not meet the definition of a Major Remodel as defined in the City of San Clemente's certified Land Use Plan (LUP). If the proposed improvements did exceed the 50% threshold, per the LUP, the building housing Units #3 and #4 would be required to conform to current bluff edge setback policies and to be considered safe for the typical 75-year economic life of new development. The applicants propose to replace portions of the exterior walls and the entirety of the roof structure to the seaward most portion of the building housing Unit #3 and Unit #4 (**Exhibit 4**). Even when a residence is not demolished and rebuilt, improvements that increase the economic life of the structure in a hazardous location are inconsistent with the Coastal Act and can reduce the incentive to move the structure landward to reduce risk and the need for shoreline protection. Therefore, significant improvements, such as those proposed for the seaward most portion of the structure, that extend the life to portions of blufftop structures nonconforming to a coastal bluff setback in its current location must be limited to those that would not result in the need for future shoreline protection, consistent with Chapter 3 policies and the hazard policies of the LUP. As development on coastal bluff sites is inherently dangerous, and the proposed development may be subject to unforeseen or underestimated geologic hazards in the future, which could lead to proposals for new shoreline or bluff protective devices with the potential to adversely affect coastal resources, **Special Condition 1** prohibits the construction of bluff or shoreline protective device(s) to protect the site and requires the applicants waive any rights to construct any such bluff/shoreline protection devices that may exist under applicable law for the entire site, including both the new addition and all structures proposed to be remodeled. This condition also requires that the applicant remove the development on the site if it cannot safely be maintained without shoreline armoring and does not allow encroachment on public trust lands unless authorized by the Commission and the State Lands Commission (or other designated trustee agency). Coastal bluffs are known to be hazardous and unpredictable. **Special Condition 2** requires the applicants to acknowledge the risks of developing in this location and indemnify the Commission against claims for damages that may occur as a result of its approval of this permit. Due to the potential for future improvements on the bluff top site which could potentially adversely impact the geologic stability, or other coastal resources, the Commission imposes **Special Condition 3** informing the applicants that future development at the site requires an amendment to this permit (5-21-0742) or a new coastal development permit. Future development includes, but is not limited to, maintenance, structural additions, installation of any hardscape and/or decks, landscaping and fencing.

To prevent adverse impacts to housing opportunities in the coastal zone, it is necessary to ensure that all four units onsite are retained and that the three smaller onsite units are not smaller than the current size of the units. Therefore, **Special Condition 5** requires retention of four units onsite and that the three smaller units shall be at least the size of the existing units (407 sq. ft., 622 sq. ft., and 371 sq. ft.). The condition further requires that at no point may one residential unit be incorporated into the other residential unit or converted to a non-residential use and prohibits ingress and egress (doors) between the four residential units.

Additionally, **Special Condition 6** requires the applicant to record a deed restriction to impose the special conditions of the permit as covenants, conditions and restrictions on the use and enjoyment of the property. By recording the terms and conditions of this permit against the property, future purchasers are notified in advance of their purchase of the limitations on development of the property.

STANDARD OF REVIEW

The Land Use Plan for the City of San Clemente was effectively certified on May 11, 1988. Comprehensive LUP amendments were certified in October 1995 and again in August 2019. The City has not yet obtained full Local Coastal Program (LCP) certification. Therefore, Chapter 3 policies of the Coastal Act are the standard of review for the project, with the certified LUP serving as guidance.

B. HAZARDS

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to prohibit construction of protective devices in the future; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of the City of Newport Beach LCP regarding the siting of development in hazardous locations.

C. DEVELOPMENT

Development adjacent to the edges of hillsides and bluffs is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access and visual resources. To minimize risks to life and property and to minimize the adverse effects of development on hillsides and bluffs, the development has been conditioned to prohibit construction of protective devices (such as a retaining wall) in the future and to require that the landowner or any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Section 30253 of the Coastal Act regarding the siting of development in hazardous locations.

D. PUBLIC ACCESS

The proposed development will not affect the public's ability to gain access to, and/or to make use of, the coast and nearby recreational facilities. Therefore, as proposed the development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

E. WATER QUALITY

The proposed work will be occurring in a location where there is a potential for a discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post construction activities on the marine environment. These design features include, but are not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters, use of ongoing best management practices following construction, reducing runoff through the use of permeable surfaces, and the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

G. LOCAL COASTAL PROGRAM (LCP)

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Land Use Plan for the City of San Clemente was effectively certified on May 11, 1988. Comprehensive LUP amendments were certified in October 1995 and again in August 2019. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The City of San Clemente is the lead agency responsible for certifying that the proposed project is in conformance with the California Environmentally Quality Act (CEQA). On July 21, 2021, the City determined that the project is categorically exempt (CEQA Guidelines Sections 15301). Section 13096(a) of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of CEQA.

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

APPENDIX A: Substantive File Documents

San Clemente LUP

City of San Clemente Project Approval-in-Concept, dated 8/10/21

Geotechnical Investigation Report, Proposed Building Addition/Remodel, 1011 Buena Vista, San Clemente, California, Project No. Buena-1-01, Geoboden Inc., June 8, 2020